

4. The publication ordered by the Council has been made as follows :—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
<i>Gazette of India</i>	16th, 23rd and 30th May, 1885.
<i>Fort St. George Gazette</i>	2nd June, 1885.
<i>Bombay Government Gazette</i>	28th May, and 4th and 11th June, 1885.
<i>Calcutta Gazette</i>	27th May, and 3rd and 10th June, 1885.
<i>North-Western Provinces and Oudh Government Gazette</i>	23rd and 30th May, and 6th June, 1885.
<i>Punjab Government Gazette</i>	21st and 28th May, and 4th June, 1885.
<i>Central Provinces Gazette</i>	23rd and 30th May, and 6th June, 1885.
<i>British Burma Gazette</i>	6th, 13th and 20th June, 1885.
<i>Assam Gazette</i>	6th and 13th June, 1885.
<i>Coorg District Gazette</i>	1st July, 1885.

<i>Province.</i>	<i>In the Vernaculars.</i>	<i>Language.</i>	<i>Date.</i>
Bombay	Maráthí Gujaráthí Kanarese Sindhí	} 25th June, 1885.
Bengal	Bengálí Hindí	
North-Western Provinces and Oudh	...	Uriya	
Punjab	...	Urdu	
Central Provinces	...	Urdu	15th, 22nd and 29th June, 1885.
Coorg	...	Maráthí	11th, 18th and 25th July, 1885.
	...	Kanarese	1st July, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.

C. P. ILBERT.

S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XVI OF 1885.

THE CENTRAL PROVINCES CIVIL COURTS ACT, 1885.

CONTENTS.

SECTIONS.

Preliminary.

1. Short title, local extent and commencement.
2. Repeal.
3. Definitions.

Classes of Courts.

4. Classes of Courts.

Court of the Judicial Commissioner.

5. Court of the Judicial Commissioner.

Courts of Commissioners and Deputy Commissioners.

6. Courts of Commissioners and Deputy Commissioners.
7. Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.
8. Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

Other Courts.

9. Chief Commissioner may declare class to which the Court of an Assistant Commissioner or Tahsildar shall belong.
10. Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsildars.

Náib-tahsildárs.

11. Conferment of jurisdiction in certain suits on Náib-tahsildárs.

SECTIONS.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

12. Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

Small Cause Court Jurisdiction.

13. Power to confer Small Cause Court jurisdiction.

Administrative Control.

14. Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner and Deputy Commissioner.
15. Power of Court of Commissioner to transfer business.
16. Power to distribute business.

Appellate Jurisdiction.

17. Appeals to whom to lie.
18. Period of limitation for appeals.

Rules.

19. Power to make rules.

Supplemental Provisions.

20. Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.
21. Place of sitting of Courts.
22. Mode of conferring powers.
23. Vacations.
24. Pending proceedings.
25. Appeals after Act comes into force against decrees and orders passed before.
26. Powers exerciseable from time to time.
27. Publication of certain orders.

An Act to amend the Law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the Law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows :—

Preliminary.

1. (1) This Act may be called the Central Short title, local extent and commencement. Provinces Civil Courts Act, 1885.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

The Central Provinces Civil Courts Act, 1885.—Sections 2-11.

(3) It shall come into force on the first day of January, 1886.

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

2. (1) On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII of 1867, so far as it relates to the Central Provinces, shall be repealed.

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given and orders issued under either of those enactments shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given and issued under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

“Assistant Commissioner” includes Extra Assistant Commissioner; and

“value,” used with reference to a suit, means the amount or value of the subject-matter of the suit.

Classes of Courts.

4. Besides the Courts of Small Causes established under Act XI of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:—

- (a) the Court of the Judicial Commissioner;
- (b) the Court of the Commissioner;
- (c) the Court of the Deputy Commissioner;
- (d) the Court of the Assistant Commissioner of the first class;
- (e) the Court of the Assistant Commissioner of the second class;
- (f) the Court of the Assistant Commissioner of the third class;
- (g) the Court of the Tahsildár of the first class;
- (h) the Court of the Tahsildár of the second class.

Court of the Judicial Commissioner.

5. The Judicial Commissioner shall be appointed by the Governor-General in Council; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

6. (1) The local limits of the jurisdiction of the Court of the Commissioner shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those

of the district of the revenue-administration of which he is in charge.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

Other Courts.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsildár, that his Court shall be that of a Tahsildár of the first or of the second class.

10. (1) Courts of Assistant Commissioners and Tahsildárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table:—

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsildár of the first class	Three hundred rupees.
Court of the Tahsildár of the second class	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsildárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

Náib-tahsildárs.

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsildár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

*The Central Provinces Civil Courts Act, 1885.—Sections 12-18.**Judicial Assistants to Commissioners, Civil Judges and Munsifs.*

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

12. (1) The Chief Commissioner may, by order in writing, invest any person—

- (a) with all or any of the powers of the Court of the Commissioner under this Act;
- (b) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or
- (c) with all or any of the powers of the Court of a Tahsildar of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under subsection (1) shall be designated as follows:—

- if invested under clause (a)—Judicial Assistant to the Commissioner;
- if invested under clause (b)—Civil Judge;
- if invested under clause (c)—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners and Courts of Tahsildars.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

14. (1) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner :

Provided that the Chief Commissioner, by order in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit.

15. (1) The Court of the Commissioner may exercise, as regards the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. XIV of 1882.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

16. Notwithstanding anything contained in the Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit : XIV of 1882.

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Appellate Jurisdiction.

17. (1) Appeals from decrees passed in original civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law and the value of the suit does not exceed one thousand rupees, lie to that Court.

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner.

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed by Civil Courts subordinate to the Court of the Judicial Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Judicial Commissioner.

Period of limitation for appeals.

18. (1) The period of limitation for an appeal to the Court of the Commissioners shall be sixty days.

(2) In the computation of that period and in all other respects the limitation of appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

XIV of 1877.

*The Central Provinces Civil Courts Act, 1885.—Sections 19-25.**Rules.*

19. (1) The Judicial Commissioner may make rules consistent with this Act and any other enactment for the time being in force—

- Power to make rules.
- (a) declaring what persons shall be permitted to practise as petition-writers in Civil Courts, and regulating the conduct of persons so practising;
 - (b) prescribing forms for seals to be used by those Courts;
 - (c) regulating the procedure in cases where any person is entitled to inspect a record of any Civil Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;
 - (d) conferring and imposing on the ministerial officers of Civil Courts such powers and duties of a non-judicial or quasi-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;
 - (e) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in those Courts or submitted to any authority;
 - (f) providing for the inspection of those Courts, and the supervision of the working thereof; and
 - (g) regulating all such matters as he may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers.

(2) A rule made under this section shall not take effect until it has been sanctioned by the Chief Commissioner and published in the official Gazette.

(3) Whoever breaks any rule made under clause (a) shall be punished with fine which may extend to fifty rupees.

(4) Rules made under clause (g) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary that may be or become due to the officers fined.

Supplemental Provisions.

20. (1) The Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Chief Commissioner such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Chief Commissioner.

(2) The Judicial Commissioner shall also comply, in such form and manner as the Chief Commissioner may deem proper, with such requisitions as may be made by the Chief Commissioner for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or

extracts from, such records or papers, or for returns, statements or reports.

21. (1) The Chief Commissioner may, by order in writing, fix the place or places at which any Civil Court shall be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Civil Court may be held at any place within the local limits of its jurisdiction.

22. The Chief Commissioner may, when he is empowered by this Act to confer any powers, confer them on any person specially by name or by virtue of his office.

23. (1) Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and the Civil Courts subordinate thereto.

(2) The list shall be published in the official Gazette.

24. (1) All cases or proceedings pending in the Court of the Judicial Commissioner on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

(2) All cases or proceedings pending in any Civil Court subordinate to the Court of the Judicial Commissioner on that day shall be disposed of as if this Act had not been passed:

Provided that the Judicial Commissioner may direct that any such cases or proceedings shall be transferred for disposal to any Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section (2), be deemed to be the Court which would have had jurisdiction as aforesaid, namely:—

(a) when the value of the suit does not exceed one thousand rupees and the decree or order has been passed by a Court of a class lower than that of the Deputy Commissioner—the Court of the Deputy Commissioner;

(b) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

25. Appeals from decrees and orders passed by Civil Courts and not appealed against before the date on which this Act comes into force shall lie and be disposed of as if this Act had not been passed and not otherwise:

Provided that the Courts to which such appeals shall lie shall be as follows:—

(a) when the appeal would before the said date have lain to the Court of the Judicial Commissioner—that Court;

The Central Provinces Civil Courts Act, 1885.—Sections 26-27.

- (b) when the appeal is from a decree or order passed by a Court of a class lower than that of the Deputy Commissioner in an original civil suit of which the value does not exceed one thousand rupees—the Court of the Deputy Commissioner;
- (c) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

26. All powers conferred by this Act may be Powers exercisable exercised from time to time from time to time. as occasion requires.

27. All orders required by this Act to be Publication of certain issued by the Chief Commissioner in writing shall orders. be published in the official Gazette.

D. FITZPATRICK,

Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law relating to Civil Courts in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the

From Officiating Secretary to Chief Commissioner, Central Provinces, No. 3492—174, dated 10th September, 1885, and enclosure [Papers No. 1].

Law relating to Civil Courts in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Bill as introduced has been approved by the Chief Commissioner, and does not, in our opinion, call for any modification.

3. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>		<i>Date.</i>
<i>Gazette of India</i>	...	1st, 8th and 15th August, 1885.
<i>Central Provinces Gazette</i>	...	8th, 15th and 22nd August, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Central Provinces	Maráthí	29th August, and 5th and 12th September, 1885.
	Hindí	5th, 12th and 19th September, 1885.

4. We recommend that the Bill be passed.

C. P. ILBERT.

S. C. BAYLEY.

W. W. HUNTER.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 9th October, 1885, and is hereby promulgated for general information:—

ACT No. XVII OF 1885.

THE CENTRAL PROVINCES*
GOVERNMENT WARDS ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.
4. Deputy Commissioner to be Court of Wards.
5. Landholders to be under jurisdiction of Court of Wards.
6. Superintendence by Court of Wards of property of disqualified landholder.
7. Cases in which landholders to be deemed disqualified.
8. Superintendence by Court of Wards of person of disqualified landholder.
9. Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.
10. Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.
11. Appointment, &c., of managers by Court of Wards.
12. Liabilities, &c., of managers and other servants of Court of Wards.
13. Power for Court of Wards to appoint guardians of certain Government wards.
14. General powers of Court of Wards.
15. Custody, education and residence of certain Government wards.
16. Allowance for Government ward and his family.
17. Duties of Court of Wards or manager.
18. Powers of Court of Wards as to property of Government wards.

SECTIONS.

19. Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.
20. Payment of costs.
21. Processes against Government ward to be served on next friend or guardian.
22. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
23. Disabilities of a Government ward.
24. Consent of Chief Commissioner necessary to adoptions by Government wards.
25. Procedure when succession to Government ward's property is disputed.
26. Withdrawal of superintendence of Court of Wards.
27. Appeals.
28. Control of Chief Commissioner.
29. Exercise of discretion not to be questioned in Civil Court.
30. Power for Chief Commissioner to make rules.

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Government Wards Act, 1885.
Short title, extent and commencement.
- (2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and
- (3) It shall come into force at once.
2. Bengal Regulations LII of 1803 (for establishing a Court of Wards in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company) and VI of 1822 (to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards), and section 14 of Act XL of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal) shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.
Repeal.

The Central Provinces Government Wards Act, 1885.—Sections 3-14.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

XVIII of 1881.

XIV of 1874.

(2) "Landholder" means a *mālguzār* as defined in the Central Provinces Land-revenue Act, 1881, and the *zamindār* of any *zamindari* specified in Part VI of the first schedule of the Scheduled Districts Act, 1874, and includes a *muāfidār*, *jagirdār*, *ubāridār* or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Chief Commissioner, with the previous sanction of the Governor General in Council, has declared the members to be landholders for the purposes of this Act: and

(3) "Land" includes the rights of a landholder in respect of the land of which he is the *mālguzār* or *zamindār* or the *muāfidār*, *jagirdār*, *ubāridār* or other assignee of land-revenue, or in which he is interested.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

Landholders to be under jurisdiction of Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

7. (1) The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

- (a) minors who have not guardians appointed for their property by will;
- (b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and
- (c) persons declared by the Chief Commissioner to be incapable of managing their own property—
 - (i) owing to any physical defect or infirmity,
 - (ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,
 - (iii) owing to their being females, or
 - (iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause (c) of this section shall be final, and shall not be questioned in any Civil Court.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of

managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder or was not or is not a minor.

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

12. (1) Every manager appointed by the Court of Wards shall—

- (a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;
- (b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and
- (c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

13. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence, and may control and remove guardians whom it has appointed.

14. Subject to the provisions of this Act and of the rules made under this Act, the Court of Wards—

- (a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care

The Central Provinces Government Wards Act, 1885.—Sections 15-26.

and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if not disqualified, might do for its care and management; and

- (b) may, of itself or through the guardian (if any) appointed by it under this Act, do in respect of the person of any Government ward, whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

15. The Court of Wards may pass such orders as to it seems fit in respect of the custody, education and residence of certain Government wards. the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

16. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

17. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

18. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Chief Commissioner, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

19. In every suit brought by or against a Government ward the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as next friend or guardian for the suit, as the case may be.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

21. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

- (1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

- (2) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

23. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

- (2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

26. (1) The Court of Wards may, with the sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as—

- (a) in the case of a person disqualified under clause (a) of section 7, he attains his majority;

- (b) in the case of a person disqualified under clause (b) of that section, he ceases to be of unsound mind and incapable of managing his affairs; and

- (c) in the case of a person disqualified under sub-clause (i) of clause (c) of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (a), or from any property under clause (c), of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

The Central Provinces Government Wards Act, 1885.—Sections 27-30.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of the division, and from every order of the Commissioner to the Chief Commissioner.

Appeals.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Control of Chief Commissioner.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division or the Chief Commissioner by this Act shall not be called in question in any Civil Court.

Exercise of discretion not to be questioned in Civil Court.

30. (1) The Chief Commissioner may, from time to time, make rules consistent with this Act to—

Power for Chief Commissioner to make rules.

- (a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;
- (b) regulate the amount of security to be given by managers;
- (c) limit the functions which the Court of Wards may delegate to a manager;

(d) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Chief Commissioner or for that of the Commissioner of the division;

(e) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards and by the Court of Wards to the Commissioner of the division;

(f) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(g) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;

(h) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(i) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(j) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.

D. FITZPATRICK,

Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Chief Commissioner considers the Bill to be well fitted to meet the objects aimed at. The Judicial Commissioner also approves the Bill, but offers some criticisms on the definition of "landholder" in section 2, and as to the position of a testamentary guardian under certain portions of the Act.

3. As regards the definition of "landholder," it appears to us that cases may occur in which it would be convenient to apply the Act to persons who, though interested in land, are not *mālguzārs* or scheduled *zamīndārs* or assignees of revenue. We have, therefore, provided in the definition for the application of the Act to such persons with the previous sanction of the Governor-General in Council.

4. The position of a testamentary guardian was not declared with sufficient clearness in the Bill. We consider that when power to appoint a guardian by will exists and has been exercised, the Court of Wards should not have authority to displace the guardian or, unless he is removed by a Civil Court, to assume the superintendence of either property or person which has been entrusted to his care. We have amended the Bill accordingly.

5. There was likewise a want of clearness in the Bill as to the powers of the Court of Wards as regards the superintendence of the person of a married female ward. We have now added a proviso to section 8 enacting that nothing in that section "shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody," and we have omitted the proviso to section 13, which has now become superfluous.

6. At the instance of the Chief Commissioner, we have provided in effect in section 12, sub-section (2), that managers and other servants of the Court of Wards who are guilty of receiving bribes shall be punishable under the Indian Penal Code as though they were "public servants" within the meaning of that Code.

7. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	... 30th May, and 6th and 13th June, 1885.
<i>Central Provinces Gazette</i> ...	... 6th, 13th and 20th June, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Central Provinces	... Maráthí	... } 1st, 8th and 15th August, 1885.
	... Hindí	

8. We do not think the measure has been so altered as to require republication, and we commend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

W. W. HUNTER.

The 2nd October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 17, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XV OF 1885.

An Act to amend the Local Authorities Loan Act, 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows :—

Addition to section 8, Act XI of 1879.

1. After clause (b) of the proviso to section 8 of the said Act the following shall be added :—

“or

“(c) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.”

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Local Authorities Loan Act, 1879, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend

the Local Authorities Loan Act, 1879, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, British Burma, No. 303—24L., dated 13th June, 1885 [Paper No. 1].
From Secretary to Chief Commissioner, Assam, No. 972, dated 18th June, 1885 [Paper No. 2].
From Chief Commissioner, Ajmer-Merwara, No. 722, dated 3rd July, 1885 [Paper No. 3].
From Secretary to Government, North-Western Provinces and Oudh, No. 3051—X-518, dated 10th July, 1885 [Paper No. 4].
From Officiating Secretary to Government, Punjab, No. 731S., dated 17th July, 1885, and enclosures [Papers No. 5].
From Secretary for Berar to Resident, Hyderabad, No. 274G., dated 13th July, 1885 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 688—89, dated 14th July, 1885 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 1800, dated 10th July, 1885, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 2054, dated 18th July, 1885, and enclosures [Papers No. 9].
From Officiating Secretary to Government, Bengal, No. 1370, dated 20th July, 1885, and enclosures [Papers No. 10].
From Assistant Secretary to Chief Commissioner, Central Provinces, No. 3052—147, dated 11th August, 1885 [Paper No. 11].

2. It has been suggested that the term “raised” should be altered so as to include money devoted to any particular purpose by a person who may not have occasion to raise it, and we have accordingly substituted the words “applied to” for “raised for”.

3. The only other alteration we have made in the Bill is a purely verbal one.

4. The publication ordered by the Council has been made as follows :—

		<i>In English.</i>	
<i>Gazette.</i>			<i>Date.</i>
<i>Gazette of India</i>	16th, 23rd and 30th May, 1885.
<i>Fort St. George Gazette</i>	2nd June, 1885.
<i>Bombay Government Gazette</i>	28th May, and 4th and 11th June, 1885.
<i>Calcutta Gazette</i>	27th May, and 3rd and 10th June, 1885.
<i>North-Western Provinces and Oudh Government Gazette</i>	23rd and 30th May, and 6th June, 1885.
<i>Punjab Government Gazette</i>	21st and 28th May, and 4th June, 1885.
<i>Central Provinces Gazette</i>	23rd and 30th May, and 6th June, 1885.
<i>British Burma Gazette</i>	6th, 13th and 20th June, 1885.
<i>Assam Gazette</i>	6th and 13th June, 1885.
<i>Coorg District Gazette</i>	1st July, 1885.

		<i>In the Vernaculars.</i>	
<i>Province.</i>		<i>Language.</i>	<i>Date.</i>
Bombay	...	Maráthí	} 25th June, 1885.
		Gujaráthí	
		Kanarese	
		Sindhí	
Bengal	...	Bengálí	} 30th June, 1885.
		Hindí	
		Uriya	
North-Western Provinces and Oudh	...	Urdu	4th, 11th and 18th July, 1885.
Punjab	...	Urdu	15th, 22nd and 29th June, 1885.
Central Provinces	...	Maráthí	11th, 18th and 25th July, 1885.
Coorg	...	Kanarese	1st July, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.

C. P. ILBERT.

S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 2nd October, 1885, and is hereby promulgated for general information :—

ACT No. XVI OF 1885.

THE CENTRAL PROVINCES CIVIL COURTS ACT, 1885.

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4. Classes of Courts.

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Courts of Commissioners and Deputy Commissioners.

6. Courts of Commissioners and Deputy Commissioners.
7. Original jurisdiction of Courts of Commissioners and Deputy Commissioners in suits.
8. Court of Deputy Commissioner to be principal Civil Court of original jurisdiction.

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9. Chief Commissioner may declare class to which the Court of an Assistant Commissioner or Tahsildar shall belong.
10. Pecuniary and local limits of the jurisdiction of Courts of Assistant Commissioners and Tahsildars.

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11. Conferment of jurisdiction in certain suits on Náib-tahsildars.

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Judicial Assistants to Commissioners, Civil Judges and Munsifs.

12. Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

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13. Power to confer Small Cause Court jurisdiction.

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15. Power of Court of Commissioner to transfer business.
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Appellate Jurisdiction.

17. Appeals to whom to lie.
18. Period of limitation for appeals.

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19. Power to make rules.

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20. Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.
21. Place of sitting of Courts.
22. Mode of conferring powers.
23. Vacations.
24. Pending proceedings.
25. Appeals after Act comes into force against decrees and orders passed before.
26. Powers exerciseable from time to time.
27. Publication of certain orders.

An Act to amend the Law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the Law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows :—

Preliminary.

1. (1) This Act may be called the Central Short title, local extent and commencement. Provinces Civil Courts Act, 1885.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

The Central Provinces Civil Courts Act, 1885.—Sections 2-11.

(3) It shall come into force on the first day of January, 1886.

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

XIV of 1865. **2.** (1) On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII of 1867, so far as it relates to the Central Provinces, shall be repealed.

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given and orders issued under either of those enactments shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given and issued under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

“Assistant Commissioner” includes Extra Assistant Commissioner; and

“value,” used with reference to a suit, means the amount or value of the subject-matter of the suit.

Classes of Courts.

4. Besides the Courts of Small Causes established under Act XI of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:—

- (a) the Court of the Judicial Commissioner;
- (b) the Court of the Commissioner;
- (c) the Court of the Deputy Commissioner;
- (d) the Court of the Assistant Commissioner of the first class;
- (e) the Court of the Assistant Commissioner of the second class;
- (f) the Court of the Assistant Commissioner of the third class;
- (g) the Court of the Tahsildár of the first class;
- (h) the Court of the Tahsildár of the second class.

Court of the Judicial Commissioner.

5. The Judicial Commissioner shall be appointed by the Governor-General in Council; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

6. (1) The local limits of the jurisdiction of the Courts of Commissioners and Deputy Commissioners shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those

of the district of the revenue-administration of which he is in charge.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

Other Courts.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsildár, that his Court shall be that of a Tahsildár of the first or of the second class.

10. (1) Courts of Assistant Commissioners and Tahsildárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table:—

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsildár of the first class	Three hundred rupees.
Court of the Tahsildár of the second class	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsildárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

Náib-tahsildárs.

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsildár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

*The Central Provinces Civil Courts Act, 1885.—Sections 12-18.**Judicial Assistants to Commissioners, Civil Judges and Munsifs.*

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

12. (1) The Chief Commissioner may, by order in writing, invest any person—

- (a) with all or any of the powers of the Court of the Commissioner under this Act;
- (b) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or
- (c) with all or any of the powers of the Court of a Tahsildar of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under subsection (1) shall be designated as follows:—

- if invested under clause (a)—Judicial Assistant to the Commissioner;
- if invested under clause (b)—Civil Judge;
- if invested under clause (c)—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners and Courts of Tahsildars.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

14. (1) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner:

Provided that the Chief Commissioner, by order in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit.

15. (1) The Court of the Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court.

XIV of 1882.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

16. Notwithstanding anything contained in the Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit:

XIV of 1882.

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Appellate Jurisdiction.

17. (1) Appeals from decrees passed in original civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law and the value of the suit does not exceed one thousand rupees, lie to that Court.

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner.

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed by Civil Courts subordinate to the Court of the Judicial Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Judicial Commissioner.

Period of limitation for appeals.

18. (1) The period of limitation for an appeal to the Court of the Commissioners shall be sixty days.

(2) In the computation of that period and in all other respects the limitation of appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

XIV of 1877.

*The Central Provinces Civil Courts Act, 1885.—Sections 19-25.**Rules.*

19. (1) The Judicial Commissioner may make rules consistent with this Act and any other enactment for the time being in force—

- (a) declaring what persons shall be permitted to practise as petition-writers in Civil Courts, and regulating the conduct of persons so practising;
- (b) prescribing forms for seals to be used by those Courts;
- (c) regulating the procedure in cases where any person is entitled to inspect a record of any Civil Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;
- (d) conferring and imposing on the ministerial officers of Civil Courts such powers and duties of a non-judicial or quasi-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;
- (e) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in those Courts or submitted to any authority;
- (f) providing for the inspection of those Courts, and the supervision of the working thereof; and
- (g) regulating all such matters as he may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers.

(2) A rule made under this section shall not take effect until it has been sanctioned by the Chief Commissioner and published in the official Gazette.

(3) Whoever breaks any rule made under clause (a) shall be punished with fine which may extend to fifty rupees.

(4) Rules made under clause (g) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary that may be or become due to the officers fined.

Supplemental Provisions.

20. (1) The Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Chief Commissioner such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Chief Commissioner.

(2) The Judicial Commissioner shall also comply, in such form and manner as the Chief Commissioner may deem proper, with such requisitions as may be made by the Chief Commissioner for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or

extracts from, such records or papers, or for returns, statements or reports.

21. (1) The Chief Commissioner may, by order in writing, fix the place or places at which any Civil Court shall be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Civil Court may be held at any place within the local limits of its jurisdiction.

22. The Chief Commissioner may, when he is empowered by this Act to confer any powers, confer them on any person specially by name or by virtue of his office.

23. (1) Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and the Civil Courts subordinate thereto.

(2) The list shall be published in the official Gazette.

24. (1) All cases or proceedings pending in the Court of the Judicial Commissioner on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

(2) All cases or proceedings pending in any Civil Court subordinate to the Court of the Judicial Commissioner on that day shall be disposed of as if this Act had not been passed:

Provided that the Judicial Commissioner may direct that any such cases or proceedings shall be transferred for disposal to any Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section (2), be deemed to be the Court which would have had jurisdiction as aforesaid, namely:—

(a) when the value of the suit does not exceed one thousand rupees and the decree or order has been passed by a Court of a class lower than that of the Deputy Commissioner—the Court of the Deputy Commissioner;

(b) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

25. Appeals from decrees and orders passed by Civil Courts and not appealed against before the date on which this Act comes into force shall lie and be disposed of as if this Act had not been passed and not otherwise:

Provided that the Courts to which such appeals shall lie shall be as follows:—

(a) when the appeal would before the said date have lain to the Court of the Judicial Commissioner—that Court;

The Central Provinces Civil Courts Act, 1885.—Sections 26-27.

- (b) when the appeal is from a decree or order passed by a Court of a class lower than that of the Deputy Commissioner in an original civil suit of which the value does not exceed one thousand rupees—the Court of the Deputy Commissioner;
- (c) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

26. All powers conferred by this Act may be Powers exercisable exercised from time to time from time to time. as occasion requires.

27. All orders required by this Act to be Publication of certain issued by the Chief Commissioner in writing shall orders. be published in the official Gazette.

D. FITZPATRICK,

Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Law relating to Civil Courts in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the Law relating to Civil Courts in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Bill as introduced has been approved by the Chief Commissioner, and does not, in our opinion, call for any modification.

3. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>		<i>Date.</i>
<i>Gazette of India</i>	...	1st, 8th and 15th August, 1885.
<i>Central Provinces Gazette</i>	...	8th, 15th and 22nd August, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Central Provinces	Maráthí	29th August, and 5th and 12th September, 1885.
	Hindí	5th, 12th and 19th September, 1885.

4. We recommend that the Bill be passed.

C. P. ILBERT.

S. C. BAYLEY.

W. W. HUNTER.

The 23rd September, 1885.

D. FITZPATRICK,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 9th October, 1885, and is hereby promulgated for general information:—

ACT No. XVII OF 1885.

THE CENTRAL PROVINCES
GOVERNMENT WARDS ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.
4. Deputy Commissioner to be Court of Wards.
5. Landholders to be under jurisdiction of Court of Wards.
6. Superintendence by Court of Wards of property of disqualified landholder.
7. Cases in which landholders to be deemed disqualified.
8. Superintendence by Court of Wards of person of disqualified landholder.
9. Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.
10. Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.
11. Appointment, &c., of managers by Court of Wards.
12. Liabilities, &c., of managers and other servants of Court of Wards.
13. Power for Court of Wards to appoint guardians of certain Government wards.
14. General powers of Court of Wards.
15. Custody, education and residence of certain Government wards.
16. Allowance for Government ward and his family.
17. Duties of Court of Wards or manager.
18. Powers of Court of Wards as to property of Government wards.

SECTIONS.

19. Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.
20. Payment of costs.
21. Processes against Government ward to be served on next friend or guardian.
22. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
23. Disabilities of a Government ward.
24. Consent of Chief Commissioner necessary to adoptions by Government wards.
25. Procedure when succession to Government ward's property is disputed.
26. Withdrawal of superintendence of Court of Wards.
27. Appeals.
28. Control of Chief Commissioner.
29. Exercise of discretion not to be questioned in Civil Court.
30. Power for Chief Commissioner to make rules.

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Government Wards Act, 1885.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

2. Bengal Regulations LII of 1803 (*for establishing a Court of Wards in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company*) and VI of 1822 (*to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards*), and section 14 of Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.

The Central Provinces Government Wards Act, 1885.—Sections 3-14.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

XVIII of 1881.

XIV of 1874.

(2) "Landholder" means a *mālguzār* as defined in the Central Provinces Land-revenue Act, 1881, and the *zamindār* of any *zamindari* specified in Part VI of the first schedule of the Scheduled Districts Act, 1874, and includes a *muāfidār*, *jagirdār*, *ubāridār* or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Chief Commissioner, with the previous sanction of the Governor General in Council, has declared the members to be landholders for the purposes of this Act: and

(3) "Land" includes the rights of a landholder in respect of the land of which he is the *mālguzār* or *zamindār* or the *muāfidār*, *jagirdār*, *ubāridār* or other assignee of land-revenue, or in which he is interested.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

Landholders to be under jurisdiction of Court of Wards.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

7. (1) The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

- (a) minors who have not guardians appointed for their property by will;
- (b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and
- (c) persons declared by the Chief Commissioner to be incapable of managing their own property—
 - (i) owing to any physical defect or infirmity,
 - (ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,
 - (iii) owing to their being females, or
 - (iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause (c) of this section shall be final, and shall not be questioned in any Civil Court.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of

managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder or was not or is not a minor.

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

Liabilities, &c., of managers and other servants of Court of Wards.

12. (1) Every manager appointed by the Court of Wards shall—

- (a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;
- (b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and
- (c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

13. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence, and may control and remove guardians whom it has appointed.

14. Subject to the provisions of this Act and of the rules made under this Act, the Court of Wards—

- (a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care

The Central Provinces Government Wards Act, 1885.—Sections 15-26.

and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if not disqualified, might do for its care and management; and

- (b) may, of itself or through the guardian (if any) appointed by it under this Act, do in respect of the person of any Government ward, whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

15. The Court of Wards may pass such orders as to it seems fit in respect of custody, education and residence of certain Government wards. any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

16. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

17. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

18. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Chief Commissioner, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

19. In every suit brought by or against a Government ward the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as next friend or guardian for the suit, as the case may be.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

21. Every process which may be issued out of any Civil Court against any Government ward shall be served on next friend or guardian for the suit.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

- (1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

- (2) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

23. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

- (2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

26. (1) The Court of Wards may, with the sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as—

- (a) in the case of a person disqualified under clause (a) of section 7, he attains his majority;

- (b) in the case of a person disqualified under clause (b) of that section, he ceases to be of unsound mind and incapable of managing his affairs; and

- (c) in the case of a person disqualified under sub-clause (i) of clause (c) of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (a), or from any property under clause (c), of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

The Central Provinces Government Wards Act, 1885.—Sections 27-30.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of the division, and from every order of the Commissioner to the Chief Commissioner.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division or the Chief Commissioner by this Act shall not be called in question in any Civil Court.

30. (1) The Chief Commissioner may, from time to time, make rules consistent with this Act to—

- (a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;
- (b) regulate the amount of security to be given by managers;
- (c) limit the functions which the Court of Wards may delegate to a manager;

(d) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Chief Commissioner or for that of the Commissioner of the division;

(e) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards and by the Court of Wards to the Commissioner of the division;

(f) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(g) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;

(h) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(i) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(j) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Chief Commissioner considers the Bill to be well fitted to meet the objects aimed at. The Judicial Commissioner also approves the Bill, but offers some criticisms on the definition of "landholder" in section 2, and as to the position of a testamentary guardian under certain portions of the Act.

3. As regards the definition of "landholder," it appears to us that cases may occur in which it would be convenient to apply the Act to persons who, though interested in land, are not *mālguzārs* or scheduled *zamīndārs* or assignees of revenue. We have, therefore, provided in the definition for the application of the Act to such persons with the previous sanction of the Governor-General in Council.

4. The position of a testamentary guardian was not declared with sufficient clearness in the Bill. We consider that when power to appoint a guardian by will exists and has been exercised, the Court of Wards should not have authority to displace the guardian or, unless he is removed by a Civil Court, to assume the superintendence of either property or person which has been entrusted to his care. We have amended the Bill accordingly.

5. There was likewise a want of clearness in the Bill as to the powers of the Court of Wards as regards the superintendence of the person of a married female ward. We have now added a proviso to section 8 enacting that nothing in that section "shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody," and we have omitted the proviso to section 13, which has now become superfluous.

6. At the instance of the Chief Commissioner, we have provided in effect in section 12, sub-section (2), that managers and other servants of the Court of Wards who are guilty of receiving bribes shall be punishable under the Indian Penal Code as though they were "public servants" within the meaning of that Code.

7. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	... 30th May, and 6th and 13th June, 1885.
<i>Central Provinces Gazette</i> ...	... 6th, 13th and 20th June, 1885.

*In the Vernaculars.**

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Central Provinces	... Maráthi	... } 1st, 8th and 15th August, 1885.
	... Hindí	

8. We do not think the measure has been so altered as to require republication, and we recommend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

W. W. HUNTER.

The 2nd October, 1885.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XVIII OF 1885.

THE LAND ACQUISITION (MINES)
ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines.
10. And also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land

Acquisition Act, 1870; It is hereby enacted as X of 1870. follows:—

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885; Short title, commencement and local extent. and

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, Saving for mineral rights of the Government. nothing in this Act shall affect the right of the Government to any mines or minerals.

3. (1) When the Local Government makes a Declaration that mines are not needed. of the Land Acquisition Act, X of 1870. 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, X of 1870. 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 14 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

The Land Acquisition (Mines) Act, 1885.—(Sections 4-10.)

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

Notice to be given before working mines lying under land.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

Power to prevent or restrict working.

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

Mode of determining persons interested and amount of compensation.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

If Local Government does not offer to pay compensation, mines may be worked in a proper manner.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, Mining communications. the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. The Local Government shall, from time to time, pay to the owner, Local Government to time, pay to the owner, pay compensation for lessee or occupier of any injury done to mines. such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

And also for injury arising from any airway or other work.

The Land Acquisition (Mines) Act, 1885.—(Sections 11-17.)

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked,

Power to officer of Local Government to enter and inspect the working of mines.

or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government

Penalty for refusal to allow inspection.

for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

13. If it appears that any such mines have been

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and, if after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

14. When a statement under section 3 has been

Construction of Act when land acquired has been transferred to a local authority or Company.

made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the

case may be, which has acquired the land" were substituted.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when X of 1870.

Pending cases.

this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, X of 1870. to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing X of 1870. to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

Definition of local authority and Company.

16. In this Act—

(a) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(b) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

This Act to be read with Land Acquisition Act, 1870.

X of 1870

D. FITZPATRICK,
Sery. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to provide for

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 24th April 1885, and enclosure [Papers No. 1].
 From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 24th April, 1885 [Paper No. 2].
 From Secretary to Chief Commissioner, Coorg, No. 206-25, dated 4th May, 1885 [Paper No. 3].
 From Chief Commissioner, Ajmer-Merwara, No. 479, dated 7th May, 1885, and enclosure [Papers No. 4].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 708-94R., dated 29th April, 1885 [Paper No. 5].
 From Secretary for Berar to Resident, Hyderabad, No. 161 G., dated 9th May, 1885 [Paper No. 6].
 From Registrar, High Court, Calcutta, No. 1524, dated 15th May, 1885 [Paper No. 7].
 From Chief Secretary to Government, Madras, No. 1251, dated 9th May, 1885, and enclosures [Papers No. 8].
 From Under Secretary to Government, Bombay, No. 4381, dated 30th May, 1885, and enclosures [Papers No. 9].
 From Secretary to Government, Bengal, No. 481 T.—R., dated 28th May, 1885, and enclosures [Papers No. 10].
 From Officiating Junior Secretary to Government, Punjab, No. 544, dated 4th June, 1885, and enclosures [Papers No. 11].
 From Bábú Gardhar Das, Honorary Magistrate, Etawah, dated 8th May, 1885 [Paper No. 12].
 From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150—L-776, dated 30th June, 1885, and enclosures [Papers No. 13].
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655—77, dated 11th July, 1885 [Paper No. 14].

cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under the administration of the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but have empowered the remaining Local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 2 of the Bill as introduced required the Government to determine, before it issued its declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 3 of the Bill as introduced, by a mine-owner desiring to work his mines is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon v. The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working, limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from

working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which it must be admitted is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will in a clear and unmistakeable way express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith v. Great Western Railway Co.* (2 Ch. D. 2351, and in appeal before the House of Lords, 3 App. Ca. 165). We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and perhaps to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture or otherwise before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously, whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 14), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position from a public point of view as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by

Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal, which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if those concerned unanimously desire that it should.

13. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	28th February, and 7th and 14th March, 1885.
<i>Fort Saint George Gazette</i> ...	17th March, 1885.
<i>Bombay Government Gazette</i> ...	12th March, 1885.
<i>Calcutta Gazette</i> ...	11th March, 1885.
<i>North-Western Provinces and Oudh Government Gazette</i> ...	14th, 21st and 28th March, 1885.
<i>Punjab Government Gazette</i> ...	26th March, and 2nd and 9th April, 1885.
<i>Central Provinces Gazette</i> ...	14th and 21st March, and 4th April, 1885.
<i>British Burma Gazette</i> ...	28th March, and 4th and 11th April, 1885.
<i>Assam Gazette</i> ...	4th, 11th and 18th April, 1885.
<i>Coorg District Gazette</i> ...	1st May, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ...	Maráthí ...	30th April, 1885.
	Gujaráthí ...	
	Kanarese ...	11th May, 1885.
	Sindhi ...	23rd April, 1885.
Bengal ...	Bengalí ...	17th March, 1885.
	Hindí ...	31st March, 1885.
	Uriya ...	26th March, 1885.
North-Western Provinces and Oudh	Urdu ...	11th, 18th and 25th April, 1885.
Punjab ...	Urdu ...	27th April, and 4th and 11th May, 1885.
Central Provinces ...	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	25th April, and 2nd and 9th May, 1885.
British Burma ...	Burmese ...	2nd, 9th and 16th May, 1885.
Assam ...	Bengalí ...	4th April, 1885.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.

C. P. ILBERT.

S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XIX OF 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions.

2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

1872. 3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April, 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

5. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

- (a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;
- (b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power of Governor General in Council to make rules.

7. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the fees to be paid for applications under sections 4 and 5;
- (b) the form in which securities delivered for renewal are to be receipted;
- (c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;
- (d) the proof which is to be produced by persons applying for duplicate securities;
- (e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;
- (f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

8. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th October, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to amend the

- From Officiating Secretary to Chief Commissioner, British Burma, No. 92—17 L., dated 7th May, 1885, and enclosure [Papers No. 1].
- From Officiating Secretary to Chief Commissioner, Assam, No. 746, dated 11th May, 1885, and enclosure [Papers No. 2].
- From Secretary for Berar to Resident, Hyderabad, No. 178 G., dated 18th May, 1885 [Paper No. 3].
- From Babu Gurdhar Das, Honorary Magistrate, Etawah, dated 18th May, 1885 [Paper No. 4].
- From Chief Commissioner, Ajmer-Merwara, No. 645, dated 17th June, 1885 [Paper No. 5].
- From Chief Secretary to Government, Madras, No. 1455, dated 3rd June, 1885, and enclosures [Papers No. 6].
- From Secretary to Government, North-Western Provinces and Oudh, No. 2793—X-395, dated 26th June, 1885 [Paper No. 7].
- From Registrar, High Court, Calcutta, No. 1898, dated 24th June, 1885 [Paper No. 8].
- From Secretary to Chief Commissioner, Coorg, No. 522—58, dated 23rd June, 1885 [Paper No. 9].
- From Officiating Secretary to Government, Bengal, No. 1304 T.E., dated 26th June, 1885, and enclosures [Papers No. 10].
- From Officiating Secretary to Government, Punjab, No. 520 S., dated 1st July, 1885, and enclosures [Papers No. 11].
- Telegram from Chief Commissioner, Central Provinces, dated 1st July, 1885 [Paper No. 12].
- From Under Secretary to Government, Bombay, No. 1839, dated 27th June, 1885, and enclosure [Papers No. 13].
- From Secretary to Government of India, Legislative Department, to Solicitor to Government of India, No. 1379, dated 28th August, 1885; from Solicitor to Government of India, No. 1163, dated 17th September, 1885, and enclosure [Papers No. 14].

law relating to Government Securities was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The only substantive alteration we have made in the Bill is in section 3, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons: but we find that a considerable difference of opinion exists regarding it.

3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.

On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.

The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.

4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to

considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour, *e.g.*, of "A, B & C," without qualification, in which case the rule of the Contract Act would apply, or to take them under words giving a right of survivorship, as, *e.g.*, in favour of "A, B & C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device such as that of a warning enfaced on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session, and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that as regards securities issued meantime, *i.e.*, say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6. The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

7. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	14th, 21st and 28th March, 1885.
<i>Port St. George Gazette</i> ...	8th April, 1885.
<i>Bombay Government Gazette</i> ...	26th March, and 2nd and 9th April, 1885.
<i>Calcutta Gazette</i> ...	25th March, and 1st and 8th April, 1885.
<i>North-Western Provinces and Oudh Government Gazette</i> ...	28th March, and 4th and 11th April, 1885.
<i>Punjab Government Gazette</i> ...	9th, 16th and 23rd April, 1885.
<i>Central Provinces Gazette</i> ...	28th March, and 4th and 11th April, 1885.
<i>British Burma Gazette</i> ...	11th, 18th and 25th April, 1885.
<i>Assam Gazette</i> ...	11th, 18th and 25th April, 1885.
<i>Cooch District Gazette</i> ...	1st May, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Telugu	12th May, 1885.
	Kanarese	26th June, 1885.
	Tamil	9th June, 1885.
	Malayalam	16th June, 1885.
Bombay	Hindustani	16th June, 1885.
	Guzarathi	23rd April, 1885.
	Marathi	30th June, 1885.
	Kanarese	7th May, 1885.
Bengal	Sindhi	30th April, 1885.
	Bengali	21st April, 1885.
	Hindi	21st and 28th April, and 5th May, 1885.
	Uriya	7th May, 1885.
North-Western Provinces and Oudh	Urdu	2nd, 9th and 16th May, 1885.
Punjab	Urdu	18th and 25th May, and 1st June, 1885.
Central Provinces	Marathi	9th, 16th and 23rd May, 1885.
Assam	Hindi	6th, 13th and 20th June, 1885.
	Bengali	2nd May, 1885.

8. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 8th October, 1885.

A. COLVIN.

C. P. ILBERT.

D. FITZPATRICK,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT No. XX OF 1885.

An Act to postpone for a limited time the operation of certain provisions of the Bengal Tenancy Act, 1885.

VIII of 1885. WHEREAS it is provided by the Bengal Tenancy Act, 1885, that that Act shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf ;

And whereas, in exercise of the power thus conferred, the Local Government, with the previous sanction of the Governor-General in Council, has, by a notification in the local official Gazette, appointed the first day of November, 1885, as the date on which the said Act is to come into force ;

And whereas it is convenient that certain portions of the said Act relating to deposits of rent

and distraint should not come into force until a later date ;

It is hereby enacted as follows :—

Postponement of operation of deposit and distraint provisions. 1. Notwithstanding anything contained in the said notification—

- (a) the provisions of sections 61 to 64, both inclusive, and of Chapter XII, of the said Act, except such of those provisions as confer powers to make rules, shall come into force on such date, not later than the first day of February, 1886, as the Local Government, after the passing of this Act, may, by notification in the local official Gazette, appoint in this behalf, or, if no date is so appointed, on the first day of February, 1886, and not before ;
- (b) until those provisions come into force, the enactments specified in Schedule I annexed to the said Act shall, in so far as they relate to deposits of rent and distraint, continue in force, and all references to those provisions in other portions of the said Act shall, so far as may be, be read as if they were made to the corresponding provisions of the said enactments.

D. FITZPATRICK,

Secy. to the Govt. of India

STATEMENT OF OBJECTS AND REASONS.

THE Lieutenant-Governor of Bengal has, for reasons which have been approved of by the Government of India and in exercise of the power conferred by the Bengal Tenancy Act, directed that that Act shall come into force on the 1st of November next. A reference to section 190 of the Act will show that an interval of at least a month must elapse between the date on which the Act comes into force and the date on which rules made under it can be brought into force. There is no reason to believe that any practical inconvenience will result from this, except possibly as regards the matters of deposits of rent by tenants and distraint ; but it is apprehended that inconvenience might be felt in regard to these matters if the provisions of the Act relating to them were for any time in force without the rules by which it is intended that they should be supplemented, and the Lieutenant-Governor has suggested, as the simplest mode of obviating this, that the date on which the provisions of the Act relating to deposits and distraint are to come into force should be postponed for a month or two, and that the existing law relating to these subjects should meantime be retained in force.

The Governor-General in Council, being anxious to minimize the inconvenience incidental to the transition from the old law to the new, has approved of this proposal, and the present Bill has been prepared to give effect to it.

The 14th October, 1885.

S. C. BAYLEY,

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 24, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 9th October, 1885, and is hereby promulgated for general information:—

ACT No. XVII OF 1885.

THE CENTRAL PROVINCES GOVERNMENT WARDS ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.
4. Deputy Commissioner to be Court of Wards.
5. Landholders to be under jurisdiction of Court of Wards.
6. Superintendence by Court of Wards of property of disqualified landholder.
7. Cases in which landholders to be deemed disqualified.
8. Superintendence by Court of Wards of person of disqualified landholder.
9. Superintendence where disqualified landholder owns land within jurisdiction of two Courts of Wards.
10. Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.
11. Appointment, &c., of managers by Court of Wards.
12. Liabilities, &c., of managers and other servants of Court of Wards.
13. Power for Court of Wards to appoint guardians of certain Government wards.
14. General powers of Court of Wards.
15. Custody, education and residence of certain Government wards.
16. Allowance for Government ward and his family.
17. Duties of Court of Wards or manager.
18. Powers of Court of Wards as to property of Government wards.

SECTIONS.

19. Manager or Court of Wards to be next friend or guardian in suits by or against Government ward.
20. Payment of costs.
21. Processes against Government ward to be served on next friend or guardian.
22. Authority of Court of Wards required in case of suits brought on behalf of Government wards.
23. Disabilities of a Government ward.
24. Consent of Chief Commissioner necessary to adoptions by Government wards.
25. Procedure when succession to Government ward's property is disputed.
26. Withdrawal of superintendence of Court of Wards.
27. Appeals.
28. Control of Chief Commissioner.
29. Exercise of discretion not to be questioned in Civil Court.
30. Power for Chief Commissioner to make rules.

An Act to make better provision for the Superintendence of Government Wards in the Central Provinces.

WHEREAS it is expedient to make better provision for the superintendence of Government wards in the Central Provinces; It is hereby enacted as follows:—

1. (1) This Act, may be called the Central Short title, extent and commencement. Provinces Government Wards Act, 1885.

(2) It extends to the territories for the time being administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

2. Bengal Regulations LII of 1803 (for establishing a Court of Wards in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company) and VI of 1822 (to establish a Court of Wards for Benares, and to define and explain certain of the rules regarding the powers and jurisdiction of the several Courts of Wards), and section 14 of Act XL of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal) shall, so far as they are in force in the whole or any part of the territories to which this Act extends, be repealed.

The Central Provinces Government Wards Act, 1885.—Sections 3-14.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act:

XVIII of 1881.

XIV of 1874.

(2) "Landholder" means a málguzá as defined in the Central Provinces Land-revenue Act, 1881, and the zamíndár of any zamíndári specified in Part VI of the first schedule of the Scheduled Districts Act, 1874, and includes a muáfídár, jagírdár, ubáridár or other assignee of land-revenue, and any person not hereinbefore specified who is interested in land and belongs to a class of which the Chief Commissioner, with the previous sanction of the Governor General in Council, has declared the members to be landholders for the purposes of this Act: and

(3) "Land" includes the rights of a landholder in respect of the land of which he is the málguzá or zamíndár or the muáfídár, jagírdár, ubaridár or other assignee of land-revenue, or in which he is interested.

4. The Deputy Commissioner shall be the Court of Wards for the limits of his district.

5. Every landholder shall be under the jurisdiction of the Court of Wards.

6. The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder owning land within the local limits of its jurisdiction who is disqualified to manage his own property.

7. (1) The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely:—

- (a) minors who have not guardians appointed for their property by will;
- (b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs; and
- (c) persons declared by the Chief Commissioner to be incapable of managing their own property—
 - (i) owing to any physical defect or infirmity,
 - (ii) owing to their having been convicted of a non-bailable offence, and being unfitted by vice or bad character,
 - (iii) owing to their being females, or
 - (iv) on their own application.

(2) Every declaration made by the Chief Commissioner under clause (c) of this section shall be final, and shall not be questioned in any Civil Court.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of

managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also:

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody.

9. Where a landholder owns land within the local limits of the jurisdiction of two or more Courts of Wards, such one only of the Courts as the Chief Commissioner may in this behalf determine shall assume the superintendence of the property, or of the person and property, of the landholder.

10. When the Court of Wards has, with the sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder or was not or is not a minor.

11. Subject to the rules made under this Act, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Act.

12. (1) Every manager appointed by the Court of Wards shall—

- (a) give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;
- (b) be entitled to such allowance as the Court thinks fit for his care and pains in the execution of his duties; and
- (c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a "public servant" within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards.

13. The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence, and may control and remove guardians whom it has appointed.

14. Subject to the provisions of this Act and of the rules made under this Act, the Court of Wards—

- (a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care

The Central Provinces Government Wards Act, 1885.—Sections 15-26.

and management of any property, of which it assumes the superintendence under this Act, as the owner of the property, if not disqualified, might do for its care and management; and

- (b) may, of itself or through the guardian (if any) appointed by it under this Act, do in respect of the person of any Government ward, whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

15. The Court of Wards may pass such orders as to it seems fit in respect of the custody, education and residence of certain Government wards, the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, when he is a minor, in respect of his education.

16. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents.

17. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

18. The Court of Wards may let the whole or any part of the property of any Government ward under its superintendence, and may, with the previous sanction of the Chief Commissioner, mortgage, sell or exchange the whole or any part of such property, and may do all such other acts as it may judge to be best for the benefit of the property and the advantage of the Government ward.

19. In every suit brought by or against a Government ward the manager of the ward's property, or, if there is no manager, the Court of Wards having the superintendence of the ward's property, shall be named as next friend or guardian for the suit, as the case may be.

20. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

21. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

22. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

(1) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(2) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

23. (1) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

24. No adoption by any Government ward, and no written or verbal permission to adopt given by any Government ward, shall be valid without the consent of the Chief Commissioner obtained either previously or subsequently to the adoption, or to the giving of the permission, on application made to him through the Court of Wards.

25. Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed, the Court of Wards may either direct that the property or part thereof be made over to any person claiming the property, or may retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court.

26. (1) The Court of Wards may, with the sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as—

(a) in the case of a person disqualified under clause (a) of section 7, he attains his majority;

(b) in the case of a person disqualified under clause (b) of that section, he ceases to be of unsound mind and incapable of managing his affairs; and

(c) in the case of a person disqualified under sub-clause (i) of clause (c) of that section, his physical defect or infirmity is removed or ceases.

(2) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (a), or from any property under clause (c), of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court.

The Central Provinces Government Wards Act, 1885.—Sections 27-30.

27. An appeal shall lie from every order of the Court of Wards under this Act to the Commissioner of the division, and from every order of the Commissioner to the Chief Commissioner.

Appeals.

28. All orders or proceedings of the Court of Wards and of the Commissioner of the division under this Act shall be subject to the supervision and control of the Chief Commissioner; and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Control of Chief Commissioner.

29. The exercise of any discretion conferred on a Court of Wards, a Commissioner of a division or the Chief Commissioner by this Act shall not be called in question in any Civil Court.

Exercise of discretion not to be questioned in Civil Court.

30. (1) The Chief Commissioner may, from time to time, make rules consistent with this Act to—

Power for Chief Commissioner to make rules.

- (a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration;
- (b) regulate the amount of security to be given by managers;
- (c) limit the functions which the Court of Wards may delegate to a manager;

(d) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the Chief Commissioner or for that of the Commissioner of the division;

(e) prescribe the accounts and other returns which, and the periods and form at and in which, they shall be rendered by managers to the Court of Wards and by the Court of Wards to the Commissioner of the division;

(f) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward;

(g) regulate the procedure in inquiries by the Court of Wards and in appeals from orders of the Court of Wards or the Commissioner of the division respectively under this Act;

(h) confer upon the Court of Wards for the purposes of this Act any of the powers exercised by a Civil Court in the trial of suits;

(i) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned; and

(j) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

(2) All rules made under this section shall be published in the local official Gazette, and shall thereupon have the force of law.

D. FITZPATRICK,

Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 2nd October, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to make better provision for the Superintendence of Government Wards in the Central Provinces was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The Chief Commissioner considers the Bill to be well fitted to meet the objects aimed at. The Judicial Commissioner also approves the Bill, but offers some criticisms on the definition of "landholder" in section 3, and as to the position of a testamentary guardian under certain portions of the Act.

3. As regards the definition of "landholder," it appears to us that cases may occur in which it would be convenient to apply the Act to persons who, though interested in land, are not *mālguzárs* or scheduled *zamindárs* or assignees of revenue. We have, therefore, provided in the definition for the application of the Act to such persons with the previous sanction of the Governor-General in Council.

4. The position of a testamentary guardian was not declared with sufficient clearness in the Bill. We consider that when power to appoint a guardian by will exists and has been exercised, the Court of Wards should not have authority to displace the guardian or, unless he is removed by a Civil Court, to assume the superintendence of either property or person which has been entrusted to his care. We have amended the Bill accordingly.

5. There was likewise a want of clearness in the Bill as to the powers of the Court of Wards as regards the superintendence of the person of a married female ward. We have now added a proviso to section 8 enacting that nothing in that section "shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is in his custody," and we have omitted the proviso to section 13, which has now become superfluous.

6. At the instance of the Chief Commissioner, we have provided in effect in section 12, sub-section (2), that managers and other servants of the Court of Wards who are guilty of receiving bribes shall be punishable under the Indian Penal Code as though they were "public servants" within the meaning of that Code.

7. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	... 30th May, and 6th and 13th June, 1885.
<i>Central Provinces Gazette</i> ...	... 6th, 13th and 20th June, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Central Provinces	... Maráthí	... } 1st, 8th and 15th August, 1885.
	... Hindí	

8. We do not think the measure has been so altered as to require republication, and we recommend that it be passed as now amended.

C. P. ILBERT.

S. C. BAYLEY.

W. W. HUNTER.

The 2nd October, 1885.

D. FITZPATRICK,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XVIII OF 1885,
THE LAND ACQUISITION (MINES)
ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines.
10. And also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land

Acquisition Act, 1870; It is hereby enacted as X of 1870. follows:—

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885; Short title, commencement, and local extent. and

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, Saving for mineral rights of the Government. nothing in this Act shall affect the right of the Government to any mines or minerals.

3. (1) When the Local Government makes a Declaration that mines are not needed. of the Land Acquisition Act, X of 1870. 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, X of 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 14 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

The Land Acquisition (Mines) Act, 1885.—(Sections 4-10.)

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

We, the undersigned, Members of the Select Committee to which the Bill to provide for

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 24th April, 1885, and enclosure [Papers No. 1].
 From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 24th April, 1885 [Paper No. 2].
 From Secretary to Chief Commissioner, Coorg, No. 206—25, dated 4th May, 1885 [Paper No. 3].
 From Chief Commissioner, Ajmer-Merwara, No. 479, dated 7th May, 1885, and enclosure [Papers No. 4].
 From Officiating Secretary to Chief Commissioner, British Burma, No. 708-94R., dated 29th April, 1885 [Paper No. 5].
 From Secretary for Berar to Resident, Hyderabad, No. 161 G., dated 9th May, 1885 [Paper No. 6].
 From Registrar, High Court, Calcutta, No. 1524, dated 15th May, 1885 [Paper No. 7].
 From Chief Secretary to Government, Madras, No. 1251, dated 9th May, 1885, and enclosures [Papers No. 8].
 From Under Secretary to Government, Bombay, No. 4331, dated 30th May, 1885, and enclosures [Papers No. 9].
 From Secretary to Government, Bengal, No. 481 T.—R., dated 28th May, 1885, and enclosures [Papers No. 10].
 From Officiating Junior Secretary to Government, Punjab, No. 544, dated 4th June, 1885, and enclosures [Papers No. 11].
 From Bābū Gardhar Das, Honorary Magistrate, Etāwah, dated 8th May, 1885 [Paper No. 12].
 From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150—L-776, dated 30th June, 1885, and enclosures [Papers No. 13].
 From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655—77, dated 11th July, 1885 [Paper No. 14].

cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. Some of the Local Governments have objected to the Bill being applied to the provinces under their administration on the ground that, having regard to the manner in which the right to minerals is regulated in those provinces, it is unnecessary there, and that, if unnecessary, it would only prove an encumbrance and

complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under the administration of the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but have empowered the remaining Local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 2 of the Bill as introduced required the Government to determine, before it issued its declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 3 of the Bill as introduced, by a mine-owner desiring to work his mines is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon v. The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working, limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from

working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which it must be admitted is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will in a clear and unmistakeable way express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith v. Great Western Railway Co.* (2 Ch. D. 2351, and in appeal before the House of Lords, 3 App. Ca. 165). We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and perhaps to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture or otherwise before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously, whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 14), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position from a public point of view as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by

Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal, which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if those concerned unani- mously desire that it should.

13. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	28th February, and 7th and 14th March, 1885.
<i>Fort Saint George Gazette</i> ...	17th March, 1885.
<i>Bombay Government Gazette</i> ...	12th March, 1885.
<i>Calcutta Gazette</i> ...	11th March, 1885.
<i>North-Western Provinces and Oudh Government Gazette</i> ...	14th, 21st and 28th March, 1885.
<i>Punjab Government Gazette</i> ...	26th March, and 2nd and 9th April, 1885.
<i>Central Provinces Gazette</i> ...	14th and 21st March, and 4th April, 1885.
<i>British Burma Gazette</i> ...	28th March, and 4th and 11th April, 1885.
<i>Assam Gazette</i> ...	4th, 11th and 18th April, 1885.
<i>Coorg District Gazette</i> ...	1st May, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ...	Maráthí ...	30th April, 1885.
	Gujaráthí ...	
	Kanarese ...	
	Sindhí ...	
Bengal ...	Bengalí ...	17th March, 1885.
	Hindí ...	31st March, 1885.
	Uriya ...	26th March, 1885.
	Urdu ...	11th, 18th and 25th April, 1885.
Punjab ...	Urdu ...	27th April, and 4th and 11th May, 1885.
Central Provinces ...	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	25th April, and 2nd and 9th May, 1885.
British Burma ...	Burmese ...	2nd, 9th and 16th May, 1885.
Assam ...	Bengalí ...	4th April, 1885.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.

C. P. ILBERT.

S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XIX OF 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions.

2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

IX of 1872.

3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April, 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

5. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power of Governor-General in Council to make rules.

7. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the fees to be paid for applications under sections 4 and 5;
- (b) the form in which securities delivered for renewal are to be receipted;
- (c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;
- (d) the proof which is to be produced by persons applying for duplicate securities;
- (e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section;
- (f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

8. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th October, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the

- law relating to Government Securities was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.
- 2. The only substantive alteration we have made in the Bill is in section 3, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons: but we find that a considerable difference of opinion exists regarding it.
- 3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.
- On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.
- The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.
- 4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to

From Officiating Secretary to Chief Commissioner, British Burma, No. 92—17L., dated 7th May, 1885, and enclosure [Papers No. 1].

From Officiating Secretary to Chief Commissioner, Assam, No. 746, dated 11th May, 1885, and enclosure [Papers No. 2].

From Secretary for Berar to Resident, Hyderabad, No. 178G., dated 18th May, 1885 [Paper No. 3].

From Bábú Gurdhar Dás, Honorary Magistrate, Etáwah, dated 18th May, 1885 [Paper No. 4].

From Chief Commissioner, Ajmer-Merwára, No. 645, dated 17th June, 1885 [Paper No. 5].

From Chief Secretary to Government, Madras, No. 1455, dated 3rd June, 1885, and enclosures [Papers No. 6].

From Secretary to Government, North-Western Provinces and Oudh, No. 2793—X-395, dated 26th June, 1885 [Paper No. 7].

From Registrar, High Court, Calcutta, No. 1898, dated 24th June, 1885 [Paper No. 8].

From Secretary to Chief Commissioner, Coorg, No. 522—58, dated 23rd June, 1885 [Paper No. 9].

From Officiating Secretary to Government, Bengal, No. 1304T.F., dated 26th June, 1885, and enclosures [Papers No. 10].

From Officiating Secretary to Government, Punjab, No. 5208., dated 1st July, 1885, and enclosures [Papers No. 11].

Telegram from Chief Commissioner, Central Provinces, dated 1st July, 1885 [Paper No. 12].

From Under Secretary to Government, Bombay, No. 1869, dated 27th June, 1885, and enclosure [Papers No. 13].

From Secretary to Government of India, Legislative Department, to Solicitor to Government of India, No. 1379, dated 28th August, 1885; from Solicitor to Government of India, No. 1163, dated 17th September, 1885, and enclosure [Papers No. 14].

considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour, *e.g.*, of "A, B & C," without qualification, in which case the rule of the Contract Act would apply, or to take them under words giving a right of survivorship, as, *e.g.*, in favour of "A, B & C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device such as that of a warning enfaced on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session, and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that as regards securities issued meantime, *i.e.*, say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6. The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

7. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	14th, 21st and 28th March, 1885.
<i>Fort St. George Gazette</i> ...	8th April, 1885.
<i>Bombay Government Gazette</i> ...	26th March, and 2nd and 9th April, 1885.
<i>Calcutta Gazette</i> ...	25th March, and 1st and 8th April, 1885.
<i>North-Western Provinces and Oudh Government Gazette</i> ...	28th March, and 4th and 11th April, 1885.
<i>Punjab Government Gazette</i> ...	9th, 16th and 23rd April, 1885.
<i>Central Provinces Gazette</i> ...	28th March, and 4th and 11th April, 1885.
<i>British Burma Gazette</i> ...	11th, 18th and 25th April, 1885.
<i>Assam Gazette</i> ...	11th, 18th and 25th April, 1885.
<i>Coorg District Gazette</i> ...	1st May, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Telugu	12th May, 1885.
	Kanarese	26th June, 1885.
	Tamil	9th June, 1885.
	Malayalam	16th June, 1885.
Bombay	Hindustani	16th June, 1885.
	Guzarathi	23rd April, 1885.
	Marathi	30th June, 1885.
	Kanarese	7th May, 1885.
Bengal	Sindhi	30th April, 1885.
	Bengali	21st April, 1885.
	Hindi	21st and 28th April, and 5th May, 1885.
	Uriya	7th May, 1885.
North-Western Provinces and Oudh	Urdu	2nd, 9th and 16th May, 1885.
Punjab	Urdu	18th and 25th May, and 1st June, 1885.
Central Provinces	Marathi	9th, 16th and 23rd May, 1885.
	Hindi	6th, 13th and 20th June, 1885.
Assam	Bengali	2nd May, 1885.

8. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. COLVIN.

C. P. ILBERT.

D. FITZPATRICK,

Secy. to the Govt. of India.

The 8th October, 1885.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT No. XX OF 1885.

An Act to postpone for a limited time the operation of certain provisions of the Bengal Tenancy Act, 1885.

WHEREAS it is provided by the Bengal Tenancy VIII of 1885. Act, 1885, that that Act shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf ;

And whereas, in exercise of the power thus conferred, the Local Government, with the previous sanction of the Governor-General in Council, has, by a notification in the local official Gazette, appointed the first day of November, 1885, as the date on which the said Act is to come into force ;

And whereas it is convenient that certain portions of the said Act, relating to deposits of rent

and distraint should not come into force until a later date ;

It is hereby enacted as follows :—

Postponement of operation of deposit and distraint provisions.

1. Notwithstanding anything contained in the said notification—

- (a) the provisions of sections 61 to 64, both inclusive, and of Chapter XII, of the said Act, except such of those provisions as confer powers to make rules, shall come into force on such date, not later than the first day of February, 1886, as the Local Government, after the passing of this Act, may, by notification in the local official Gazette, appoint in this behalf, or, if no date is so appointed, on the first day of February, 1886, and not before ;
- (b) until those provisions come into force, the enactments specified in Schedule I annexed to the said Act shall, in so far as they relate to deposits of rent and distraint, continue in force, and all references to those provisions in other portions of the said Act shall, so far as may be, be read as if they were made to the corresponding provisions of the said enactments.

D. FITZPATRICK,

Secy. to the Govt. of India.

STATEMENT OF OBJECTS AND REASONS.

THE Lieutenant-Governor of Bengal has, for reasons which have been approved of by the Government of India and in exercise of the power conferred by the Bengal Tenancy Act, directed that that Act shall come into force on the 1st of November next. A reference to section 190 of the Act will show that an interval of at least a month must elapse between the date on which the Act comes into force and the date on which rules made under it can be brought into force. There is no reason to believe that any practical inconvenience will result from this, except possibly as regards the matters of deposits of rent by tenants and distraint ; but it is apprehended that inconvenience might be felt in regard to these matters if the provisions of the Act relating to them were for any time in force without the rules by which it is intended that they should be supplemented, and the Lieutenant-Governor has suggested, as the simplest mode of obviating this, that the date on which the provisions of the Act relating to deposits and distraint are to come into force should be postponed for a month or two, and that the existing law relating to these subjects should meantime be retained in force.

The Governor-General in Council, being anxious to minimize the inconvenience incidental to the transition from the old law to the new, has approved of this proposal, and the present Bill has been prepared to give effect to it.

The 14th October, 1885.

S. C. BAYLEY,

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 31, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information:—

ACT No. XVIII OF 1885.

THE LAND ACQUISITION (MINES) ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines.
10. And also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870; It is hereby enacted as X of 1870. follows:—

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885; Short title, commencement and local extent. and

(2) It shall come into force at once.

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, Saving for mineral rights of the Govern- nothing in this Act shall affect the right of the Government to any mines or minerals.

3. (1) When the Local Government makes a Declaration that mines are not needed. of the Land Acquisition Act, X of 1870. 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

(a) when he makes an award under section 14 of that Act, insert such a statement in his award;

(b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or

The Land Acquisition (Mines) Act, 1885.—(Sections 4-10.)

(c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor-General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish, in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and

until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Government so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

The Land Acquisition (Mines) Act, 1885.—(Sections 11-17.)

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being, or are about to be worked.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and, if after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to or has vested by operation of law in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government" wherever they occur in those sections the words "the local authority or Company, as the

case may be, which has acquired the land" were substituted.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same.

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

Definition of local authority and Company.

16. In this Act—

- (a) "local authority" means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and
- (b) "Company" means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

This Act to be read with Land Acquisition Act, 1870.

X of 1870.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 23rd September, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From Messrs. Macneill & Co., Managing Agents, Equitable Coal Company, Limited, dated 24th April, 1885, and enclosure [Papers No. 1].

From Officiating Secretary to Chief Commissioner, Assam, No. 649, dated 24th April, 1885 [Paper No. 2].

From Secretary to Chief Commissioner, Coorg, No. 206-25, dated 4th May, 1885 [Paper No. 3].

From Chief Commissioner, Ajmer-Merwara, No. 479, dated 7th May, 1885, and enclosure [Papers No. 4].

From Officiating Secretary to Chief Commissioner, British Burma, No. 708-94R., dated 29th April, 1885 [Paper No. 5].

From Secretary for Berar to Resident, Hyderabad, No. 161 G., dated 9th May, 1885 [Paper No. 6].

From Registrar, High Court, Calcutta, No. 1524, dated 15th May, 1885 [Paper No. 7].

From Chief Secretary to Government, Madras, No. 1251, dated 9th May, 1885, and enclosures [Papers No. 8].

From Under Secretary to Government, Bombay, No. 4381, dated 30th May, 1885, and enclosures [Papers No. 9].

From Secretary to Government, Bengal, No. 481 T.-R., dated 28th May, 1885, and enclosures [Papers No. 10].

From Officiating Junior Secretary to Government, Punjab, No. 544, dated 4th June, 1885, and enclosures [Papers No. 11].

From Babu Gardhar Das, Honorary Magistrate, Etawah, dated 8th May, 1885 [Paper No. 12].

From Chief Secretary to Government, North-Western Provinces and Oudh, No. 1150-1-776, dated 30th June, 1885, and enclosures [Papers No. 13].

From Assistant Secretary to Chief Commissioner, Central Provinces, No. 2655-77, dated 11th July, 1885 [Paper No. 14].

complication in the acquisition of lands. To meet these objections we have made the measure applicable by its own vigour only to the territories under the administration of the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but have empowered the remaining Local Governments to extend it to the whole or any part of the territories administered by them if they think fit.

3. An apprehension has been expressed in some of the opinions received that the Bill might by implication affect the rights which the Crown has to all minerals throughout a very large portion of this country. Such an apprehension is, we believe, unfounded, but by way of greater precaution and to prevent misapprehension we have inserted a section (2) saving the rights of the Crown.

4. Section 2 of the Bill as introduced required the Government to determine, before it issued its declaration under section 6 of the Land Acquisition Act, whether the land should be acquired simply under that Act, that is to say, including the minerals, or whether the special provisions of this Bill should be put in force with a view to excluding the minerals from the acquisition.

It has been represented that it is not for the interest of any of those concerned that an irrevocable determination should necessarily be come to on so important a point at a stage of the proceedings when the circumstances of the case would in all probability be imperfectly known. The Government, it will be observed on reference to the Land Acquisition Act, has a discretion to withdraw from a proposed acquisition of land up to a considerably later stage, and it seems but reasonable that it should have a discretion to exclude the minerals from the acquisition at any time up to the same stage if it turns out that their acquisition is not essential to the undertaking, and that either the owners are unwilling to part with them or the Government or the local authority or Company concerned is unwilling to pay their full value. We have accordingly (in section 3) empowered the Collector, who in such a matter would, of course, act under the control of the Government, to exclude the minerals from the acquisition at any time up to the stage of the proceedings at which the land vests, and it is no longer in the discretion of the Government to recede from the transaction.

5. It has been urged that the notice of thirty days to be given to the Government, under section 3 of the Bill as introduced, by a mine-owner desiring to work his mines is too short having regard to the delays in communication in this country. We think the objection is reasonable, and we have accordingly (in section 4 of the amended Bill) extended the period to sixty days.

6. It has been held by the House of Lords in an important case (*Dixon v. The Caledonian Railway Co.*, 5 App. Ca. 820) that when a mine-owner gives notice under section 78 of the Railways Clauses Act, 1845, of his intention to work minerals, the Railway Company is not, for the purpose of giving its counter-notice to stop or control the working, limited to the thirty days for which the mine-owner's notice runs, that the period of thirty days is merely prescribed as a period until the expiration of which the mine-owner is debarred from

working, and that the Company can at any time give its counter-notice, though of course if given at any time after the thirty days had expired and the workings had been commenced it would have no effect except as regards the further progress of the workings. The opposite view, as was pointed out by their Lordships, would involve somewhat serious consequences, and it is obviously necessary that there should be no mistake as to the effect of the Bill in this respect. It would doubtless have been sufficient, so far as regards the ultimate result, if we followed the exact wording of the English Act, on the main lines of which we are proceeding throughout. The highest Courts in this country would, as a matter of course, follow the decision of the House of Lords, but it is to be apprehended that inferior authorities might in many cases be ignorant of that decision, and might mistake the effect of the wording of the English Act, which it must be admitted is by no means clear. We have therefore thought it safer to amend the sections concerned in such a manner that they will in a clear and unmistakeable way express the effect of the English Act as construed by the House of Lords.

7. Another important English decision which points to an amendment of the Bill is that in *Smith v. Great Western Railway Co.* (2 Ch. D. 2351, and in appeal before the House of Lords, 3 App. Ca. 165). We may have, under a Bill of this sort, a state of things to deal with, of which that case affords an illustration, where one person holding under a terminable lease has an immediate right to work the minerals, and another person is entitled to the reversion on the expiration of the lease and perhaps to a rent or royalty during its continuance. The lease may or may not be of such a length as to admit of all the minerals being worked out during its continuance, and it may or may not be liable to be put an end to by forfeiture or otherwise before the expiration of its term. The provisions of the English Act, which deal specially with the subject now before us, and which have been incorporated in this Bill, were found inadequate to provide for the exigencies of such a state of things as that referred to. They probably contemplate a settlement only with the person immediately entitled to work the mines, and, in order to provide for the case of a reversioner or other person interested, it was found necessary to call in the aid of a general provision of the law which would be out of place in a Bill like this.

It appears to us that the simplest mode of dealing with the various interests that may co-exist in the mines is to require, in accordance with the scheme of the Land Acquisition Act, that they should all, whether present or future, be considered and compensated for simultaneously, whenever the owner of the surface has occasion to exercise his power of stopping or controlling the working.

We have accordingly provided in effect that where the person immediately entitled to work the mines intimates to the owner of the surface his intention to work them, and the latter after that determines to stop or control the working, the settlement of compensation must extend to all persons interested in the mines, and the stoppage or control will be binding in perpetuity on all alike.

8. We have introduced three new sections (8, 9 and 10), corresponding to sections 80, 81 and 82 of the Railways Clauses Act, 1845. We question whether the object of these sections would not have been otherwise attained through the medium of the Land Acquisition Act, the provisions of which were made applicable by section 6 of the Bill as introduced; but as importance appeared to be attached to them in the memorial of the Coal Companies, we have thought it better to remove all doubt by including them. They will doubtless overlap section 6 of the Bill, but no practical harm will result from this.

9. An objection has been taken in some quarters to section 11 of the Bill as introduced (now section 14), which in effect gives to certain Companies the powers conferred on the Local Government by some of the foregoing provisions of the Bill. It appears to be overlooked that the section in question can apply only to Companies established for such purposes and occupying such a position from a public point of view as would warrant the Government in acquiring land on their behalf. In particular it is provided, by sections 48 and 49 of the Land Acquisition Act, that land shall not be acquired for a Company under that Act unless it is needed for a work likely to prove useful to the public, and the Company enters into an agreement with the Government settling, among other matters, the time within which and the conditions on which the work shall be executed and maintained and the terms on which the public shall be entitled to use it.

10. We may further observe that there appears from some of the papers considered by us to be a certain amount of misapprehension as to the nature of the powers referred to.

If the Local Government or the Company exercising the powers of the Local Government neglects to come to terms with the mine-owner on his giving notice of his intention to work, it does so at the risk of its property. If, considering that the mine-owner is working improperly, it takes steps under section 7 (new numbering) to remedy the mischief with a view to charging the mine-owner with the cost, it does so at the risk of losing its money and of incurring serious legal consequences if the Court before which the case may ultimately come takes a different view of the matter. Similarly, if it considers that the mines are being worked contrary to the provisions of the Act and proceeds to take steps under section 13 (new numbering), it still acts at its own risk, for it is by no means certain that it will appear to the Court that the mines were being so worked.

Thus the powers in question are very far from being so formidable as has been supposed, and we may add that they are framed as closely as possible on the lines of those conferred by

Parliament on Railway Companies in England, the substance of which seems generally to have met with approval.

11. We have placed "local authorities" on a footing similar to that of Companies, as in many recent Acts the provisions of the Land Acquisition Act have been made applicable for the purpose of acquiring land for such authorities.

12. We are informed that there are certain land acquisition cases pending at this moment in Bengal, which have already proceeded beyond the stage at which the provisions of this measure would in its ordinary course be applicable to them, but in which it may nevertheless be thought desirable to have the benefit of it. To meet this, we have inserted a clause (15 (2)) which will admit of the Bill being applied in such cases if those concerned unanimously desire that it should.

13. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	28th February, and 7th and 14th March, 1885.
<i>Fort Saint George Gazette</i> ...	17th March, 1885.
<i>Bombay Government Gazette</i> ...	12th March, 1885.
<i>Calcutta Gazette</i> ...	11th March, 1885.
<i>North-Western Provinces and Oudh Government Gazette</i> ...	14th, 21st and 28th March, 1885.
<i>Punjab Government Gazette</i> ...	26th March, and 2nd and 9th April, 1885.
<i>Central Provinces Gazette</i> ...	14th and 21st March, and 4th April, 1885.
<i>British Burma Gazette</i> ...	28th March, and 4th and 11th April, 1885.
<i>Assam Gazette</i> ...	4th, 11th and 18th April, 1885.
<i>Coorg District Gazette</i> ...	1st May, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Bombay ...	Maráthí ...	30th April, 1885.
	Gujaráthí ...	
	Kanarese ...	
Bengal ...	Sindhi ...	11th May, 1885.
	Bengali ...	23rd April, 1885.
	Hindí ...	17th March, 1885.
	Uriya ...	31st March, 1885.
North-Western Provinces and Oudh	Urdu ...	26th March, 1885.
Punjab ...	Urdu ...	11th, 18th and 25th April, 1885.
Central Provinces ...	Urdu ...	27th April, and 4th and 11th May, 1885.
British Burma ...	Maráthí ...	9th, 16th and 23rd May, 1885.
	Hindí ...	25th April, and 2nd and 9th May, 1885.
Assam ...	Burmese ...	2nd, 9th and 16th May, 1885.
	Bengali ...	4th April, 1885.

14. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.

C. P. ILBERT.

S. C. BAYLEY.

The 23rd September, 1885.

D. FITZPATRICK,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT NO. XIX OF 1885.

An Act to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

Definitions.

2. In this Act—

The expression "Government security" includes promissory notes, debentures, stock certificates, and all other securities issued by the Government of India or by any Local Government in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act, but does not include a stock note or a currency note: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

of 1872.

3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security issued before the first day of April, 1886, is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. A person claiming to be entitled to a Government security as payable to him under an endorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

5. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for such loss or destruction it would be payable, he may, on application to the prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

(a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and

(b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power of Governor-General in Council to make rules.

7. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the fees to be paid for applications under sections 4 and 5 ;
- (b) the form in which securities delivered for renewal are to be received ;
- (c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5 ;
- (d) the proof which is to be produced by persons applying for duplicate securities ;
- (e) the form and mode of publication of the notification mentioned in section 5, and the period after which interest may be paid or a duplicate security may be issued under that section ;
- (f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security ; and

(g) generally all matters connected with the grant of renewed and duplicate securities.

8. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to Government Securities was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th October, 1885 :—

We, the undersigned, Members of the Select Committee to which the Bill to amend the law relating to Government Securities was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The only substantive alteration we have made in the Bill is in section 3, which, in cases in which one of a number of joint-holders of a Government security dies, applies what we may term the rule of survivorship as opposed to the rule of representation laid down by section 45 of the Indian Contract Act. The reasons which led to the insertion of this provision are fully set forth in the Statement of Objects and Reasons : but we find that a considerable difference of opinion exists regarding it.

3. On the one hand, it is urged, among others, by so high an authority as the Advocate General of Bengal, that this provision should be generalized and extended to other classes of obligations besides those arising on Government securities.

On the other hand, it is argued in several of the papers that the rule of survivorship as applied to instruments of the description in question is one that does not fit in with the habits and ideas of certain classes of the Native population, and might, if extended to those classes as an absolutely binding rule, open a door to the perpetration of frauds.

The question thus raised is of considerable importance and difficulty. We do not think that we should be justified in entering fully upon it here in the absence of those members of the Council most competent to advise on legal and commercial matters, and we accordingly propose, with a view to avoiding it as far as possible, to confine the section to Government securities already issued, or which may be issued before the 1st of April next.

4. As regards securities already issued, the law must be settled without any further delay, the delay which has taken place in obtaining opinions on the Bill having already led to

From Officiating Secretary to Chief Commissioner, British Burma, No. 92—17L., dated 7th May, 1885, and enclosure [Papers No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 746, dated 11th May, 1885, and enclosure [Papers No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 178G., dated 18th May, 1885 [Paper No. 3].
From Bábú Gurdhar Dás, Honorary Magistrate, Etáwah, dated 18th May, 1885 [Paper No. 4].
From Chief Commissioner, Ajmer-Merwára, No. 645, dated 17th June, 1885 [Paper No. 5].
From Chief Secretary to Government, Madras, No. 1455, dated 3rd June, 1885, and enclosures [Papers No. 6].
From Secretary to Government, North-Western Provinces and Oudh, No. 2793—X-395, dated 26th June, 1885 [Paper No. 7].
From Registrar, High Court, Calcutta, No. 1898, dated 24th June, 1885 [Paper No. 8].
From Secretary to Chief Commissioner, Coorg, No. 522—58, dated 23rd June, 1885 [Paper No. 9].
From Officiating Secretary to Government, Bengal, No. 1304T.F., dated 26th June, 1885, and enclosures [Papers No. 10].
From Officiating Secretary to Government, Punjab, No. 520S., dated 1st July, 1885, and enclosures [Papers No. 11].
Telegram from Chief Commissioner, Central Provinces, dated 1st July, 1885 [Paper No. 12].
From Under Secretary to Government, Bombay, No. 1869, dated 27th June, 1885, and enclosure [Papers No. 13].
From Secretary to Government of India, Legislative Department, to Solicitor to Government of India, No. 1379, dated 28th August, 1885 ; from Solicitor to Government of India, No. 1163, dated 17th September, 1885, and enclosure [Papers No. 14].

considerable public inconvenience. Moreover, as it is impracticable to make any distinctions among those securities, one and the same rule must be laid down for all, and it is clear that that rule must be the rule of survivorship. The rule of survivorship has hitherto been applied to them, as well after the passing of the Contract Act as before, subject at most to rare exceptions or qualifications. It is the rule that is most suitable to the great majority of those who hold those securities, and if in exceptional cases it should be found to be less suitable it must be remembered that those securities have been issued under a system which contemplated its application.

5. On the other hand, there is no necessity to settle the question at this moment as regards securities to be issued for all time to come, especially as a simple mode of providing, without the aid of the legislature, for securities to be hereafter issued has been proposed.

It has been suggested that it could be so arranged in the Loan Department of the Government that it should be in the option of persons, in whose favour securities are first issued or to whom they are subsequently transferred by endorsement, either to take them simply in their several names, that is to say, in favour, *e.g.*, of "A, B & C," without qualification, in which case the rule of the Contract Act would apply, or to take them under words giving a right of survivorship, as, *e.g.*, in favour of "A, B & C, and the survivor or survivors of them," in which case we are advised the rule of the Contract Act would be excluded and the rule of survivorship would apply. This, it has been argued, would be likely to afford a more satisfactory solution of the difficulty as regards securities to be hereafter issued than any enactment establishing either the rule of survivorship or that of representation in a hard-and-fast manner, as it would leave it open to all concerned to adopt for themselves the rule best adapted to their requirements.

It is urged, on the other hand, that the requirements of the new system would be likely for some time to be overlooked, and that considerable hardship and inconvenience would thus result, but this danger might perhaps be averted by some device such as that of a warning enfaced on the security in such a way as to attract attention.

We do not, however, recommend that any determination should be arrived at on this matter until it has undergone the fullest discussion. It will doubtless be settled during the course of the Calcutta Session, and we think that we are acting most in accord with the balance of convenience, and so as to occasion the least amount of disturbance in existing relations, by recommending that as regards securities issued meantime, *i.e.*, say up to the 1st of April next, the law should be placed on the same footing as for securities already issued, that is to say, that the rule of survivorship should apply.

6. The remaining changes which we have made in the Bill, being confined to matters of form or drafting, do not call for special notice. We may, however, mention that we have introduced words in the definition of "Government security" to make it clear that the Bill does not apply to stock notes or currency notes—classes of securities to which, as they are otherwise provided for, it was never intended to apply.

7. The publication ordered by the Council has been made as follows:—

<i>Gazette.</i>		<i>In English.</i>	
			<i>Date.</i>
<i>Gazette of India</i>	14th, 21st and 28th March, 1885.
<i>Fort St. George Gazette</i>	8th April, 1885.
<i>Bombay Government Gazette</i>	26th March, and 2nd and 9th April, 1885.
<i>Calcutta Gazette</i>	25th March, and 1st and 8th April, 1885.
<i>North-Western Provinces and Oudh Govern-</i>
<i>ment Gazette</i>	28th March, and 4th and 11th April, 1885.
<i>Punjab Government Gazette</i>	9th, 16th and 23rd April, 1885.
<i>Central Provinces Gazette</i>	28th March, and 4th and 11th April, 1885.
<i>British Burma Gazette</i>	11th, 18th and 25th April, 1885.
<i>Assam Gazette</i>	11th, 18th and 25th April, 1885.
<i>Coorg District Gazette</i>	1st May, 1885.

<i>Province.</i>		<i>In the Vernaculars.</i>	
		<i>Language.</i>	<i>Date.</i>
Madras	...	Telugu	12th May, 1885.
		Kanarese	26th June, 1885.
		Tamil	9th June, 1885.
		Malayalam	16th June, 1885.
Bombay	...	Hindustani	16th June, 1885.
		Guzarathi	23rd April, 1885.
		Marathi	30th June, 1885.
		Kanarese	7th May, 1885.
Bengal	...	Sindhi	30th April, 1885.
		Bengali	21st April, 1885.
		Hindi	24th and 28th April, and 5th May, 1885.
		Uriya	7th May, 1885.
North-Western Provinces and Oudh	...	Urdu	2nd, 9th and 16th May, 1885.
Punjab	...	Urdu	18th and 25th May, and 1st June, 1885.
Central Provinces	...	Marathi	9th, 16th and 23rd May, 1885.
Assam	...	Hindi	6th, 13th and 20th June, 1885.
		Bengali	2nd May, 1885.

8. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. COLVIN.

C. P. ILBERT.

D. FITZPATRICK,

Secy. to the Govt. of India.

The 8th October, 1885.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 16th October, 1885, and is hereby promulgated for general information :—

ACT No. XX OF 1885.

An Act to postpone for a limited time the operation of certain provisions of the Bengal Tenancy Act, 1885.

VIII of 1885. WHEREAS it is provided by the Bengal Tenancy Act, 1885, that that Act shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, appoint in this behalf ;

And whereas, in exercise of the power thus conferred, the Local Government, with the previous sanction of the Governor-General in Council, has, by a notification in the local official Gazette, appointed the first day of November, 1885, as the date on which the said Act is to come into force ;

And whereas it is convenient that certain portions of the said Act relating to deposits of rent

and distraint should not come into force until a later date ;

It is hereby enacted as follows :—

Postponement of operation of deposit and distraint provisions. 1. Notwithstanding anything contained in the said notification—

- (a) the provisions of sections 61 to 64, both inclusive, and of Chapter XII, of the said Act, except such of those provisions as confer powers to make rules, shall come into force on such date, not later than the first day of February, 1886, as the Local Government, after the passing of this Act, may, by notification in the local official Gazette, appoint in this behalf, or, if no date is so appointed, on the first day of February, 1886, and not before ;
- (b) until those provisions come into force, the enactments specified in Schedule I annexed to the said Act shall, in so far as they relate to deposits of rent and distraint, continue in force, and all references to those provisions in other portions of the said Act shall, so far as may be, be read as if they were made to the corresponding provisions of the said enactments.

D. FITZPATRICK,
Secy. to the Govt. of India.

STATEMENT OF OBJECTS AND REASONS.

THE Lieutenant-Governor of Bengal has, for reasons which have been approved of by the Government of India and in exercise of the power conferred by the Bengal Tenancy Act, directed that that Act shall come into force on the 1st of November next. A reference to section 190 of the Act will show that an interval of at least a month must elapse between the date on which the Act comes into force and the date on which rules made under it can be brought into force. There is no reason to believe that any practical inconvenience will result from this, except possibly as regards the matters of deposits of rent by tenants and distraint ; but it is apprehended that inconvenience might be felt in regard to these matters if the provisions of the Act relating to them were for any time in force without the rules by which it is intended that they should be supplemented, and the Lieutenant-Governor has suggested, as the simplest mode of obviating this, that the date on which the provisions of the Act relating to deposits and distraint are to come into force should be postponed for a month or two, and that the existing law relating to these subjects should meantime be retained in force.

The Governor-General in Council, being anxious to minimize the inconvenience incidental to the transition from the old law to the new, has approved of this proposal, and the present Bill has been prepared to give effect to it.

The 14th October, 1885.

S. C. BAYLEY,
D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1885, and is hereby promulgated for general information:—

ACT No. XXI OF 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Civil Courts Act, 1885; and

(2) It shall come into force at once.

2. To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely:—

"The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court."

3. To section 11 of the same Act the following Addition to section 11 shall be added, namely:—

"If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other, or others, shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge."

4. (a) In section 22 of the same Act, before the words "be final", and Amendment of sections 22 and 23 of the same Act.

(b) in section 23 of the same Act as amended by Act XIX of 1877, before the words "be suspended or removed", the words "subject to the control of the High Court" shall be inserted.

5. In section 28 of the same Act—

(a) before the words "Subordinate Judge", in both places where they occur, the words "District or" shall be inserted;

(b) after the words "rupees fifty" the words "or on the recommendation of the High Court up to any amount not exceeding rupees two hundred" shall be inserted.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Madras Civil Courts Act, 1873, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th October, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the

Madras Civil Courts Act, 1873, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The changes which we have made in the Bill have, with certain variations in drafting, been made in accordance with the recommendation

From Mr. T. R. Seshiah, First Grade Pleader, Dindigul, dated 28th June, 1885 [Paper No. 1].
From Chief Secretary to Government, Madras, No. 2200, dated 24th August, 1885, and enclosures [Papers No. 2].
From Raja of Parpanangudi, dated 4th August, 1885 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2204, dated 24th August, 1885, and enclosures [Papers 4].
From Chief Secretary to Government, Madras, No. 2373, dated 5th September, 1885, and enclosure [Papers No. 5].
From Chief Secretary to Government, Madras, No. 2427, dated 14th September, 1885, and enclosures [Papers No. 6].

of the Madras High Court and the Governor of Madras in Council.

They are as follows:—

- (a) a new section (2) has been inserted to remove a difficulty which has been felt about arranging, as is sometimes convenient, that a Court should sit at a place beyond the local limits of its jurisdiction;
- (b) section 3 of the amended Bill (corresponding to section 2 of the Bill as introduced) has been modified so as to meet more effectually the difficulties, as now explained, which arise when more than one District Munsif is appointed to the same local area;
- (c) a new section (4) has been inserted giving the High Court a control over the suspension and removal of ministerial officers of subordinate Courts;
- (d) the limit of value up to which Small Cause Court powers can be conferred on a District Munsif has been (section 5) reduced from Rs. 500 to Rs. 200, and it has further been provided that such powers, when the value exceeds Rs. 50 (the present limit), can be conferred only on the recommendation of the High Court.

3. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	... 30th May, and 16th and 13th June, 1885.
<i>Fort Saint George Gazette</i> ...	... 16th June, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Telugu	31st July, 1885.
	Malayalam	
	Tamil	7th August, 1885.
	Kanarese	14th August, 1885.
	Hindustani	

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 15th October, 1885.

C. P. ILBERT.

S. C. BAYLEY.

A. COLVIN.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, NOVEMBER 7, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1885, and is hereby promulgated for general information :—

ACT No. XXI of 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873; It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Civil Courts Act, 1885; and
Short title and com-
mencement.
- (2) It shall come into force at once.
2. To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely :—
Addition to section 5
of Act III of 1873.
- “The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court.”

3. To section 11 of the same Act the following Addition to section 11 shall be added, namely :—
of the same Act.

“If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other, or others, shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge.”

4. (a) In section 22 of the same Act, before the words “be final”, and

Amendment of sec-
tions 22 and 23 of the
same Act.

(b) in section 23 of the same Act as amended by Act XIX of 1877, before the words “be suspended or removed”,

the words “subject to the control of the High Court” shall be inserted.

Amendment of sec-
tion 28 of the same Act.

5. In section 28 of the same Act—

(a) before the words “Subordinate Judge”, in both places where they occur, the words “District or” shall be inserted;

(b) after the words “rupees fifty” the words “or on the recommendation of the High Court up to any amount not exceeding rupees two hundred” shall be inserted.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Madras Civil Courts Act, 1873, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th October, 1885 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Madras Civil Courts Act, 1873, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

2. The changes which we have made in the Bill have, with certain variations in drafting, been made in accordance with the recommendation of the Madras High Court and the Governor of Madras in Council.

They are as follows :—

- (a) a new section (2) has been inserted to remove a difficulty which has been felt about arranging, as is sometimes convenient, that a Court should sit at a place beyond the local limits of its jurisdiction;
- (b) section 3 of the amended Bill (corresponding to section 2 of the Bill as introduced) has been modified so as to meet more effectually the difficulties, as now explained, which arise when more than one District Munsif is appointed to the same local area;
- (c) a new section (4) has been inserted giving the High Court a control over the suspension and removal of ministerial officers of subordinate Courts;
- (d) the limit of value up to which Small Cause Court powers can be conferred on a District Munsif has been (section 5) reduced from Rs. 500 to Rs. 200, and it has further been provided that such powers, when the value exceeds Rs. 50 (the present limit), can be conferred only on the recommendation of the High Court.

3. The publication ordered by the Council has been made as follows :—

		<i>In English.</i>	
<i>Gazette.</i>			<i>Date.</i>
<i>Gazette of India</i>	...	...	30th May, and 16th and 13th June, 1885.
<i>Fort Saint George Gazette</i>	...	...	16th June, 1885.
<i>In the Vernaculars.</i>			
<i>Province.</i>		<i>Language.</i>	<i>Date.</i>
Madras	...	Telugu	31st July, 1885.
		Malayalam	
		Tamil	7th August, 1885.
		Kanarese	
		Hindustani	14th August, 1885.

We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

The 15th October, 1885.

C. P. ILBERT.

S. C. BAYLEY.

A. COLVIN.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, NOVEMBER 14, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 26th October, 1885, and is hereby promulgated for general information:—

ACT NO. XXI OF 1885.

An Act to amend the Madras Civil Courts Act, 1873.

WHEREAS it is expedient to amend the Madras Civil Courts Act, 1873; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Civil Courts Act, 1885; and
Short title and commencement.

(2) It shall come into force at once.

2. To section 5 of the Madras Civil Courts Act, 1873, the following shall be added, namely:—
Addition to section 5 of Act III of 1873.

“The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court.”

3. To section 11 of the same Act the following Addition to section 11 shall be added, namely:—
of the same Act.

“If the High Court assigns the same local jurisdiction to two or more District Munsifs, it shall declare which of them shall be deemed the Principal District Munsif, and the other, or others, shall be called Additional District Munsifs, and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the District Judge.”

4. (a) In section 22 of the same Act, before Amendment of section the words “be final”, and tions 22 and 23 of the same Act.

(b) in section 23 of the same Act as amended by Act XIX of 1877, before the words “be suspended or removed”,

the words “subject to the control of the High Court” shall be inserted.

Amendment of section 5. In section 28 of the 28 of the same Act. same Act—

(a) before the words “Subordinate Judge”, in both places where they occur, the words “District or” shall be inserted;

(b) after the words “rupees fifty” the words “or on the recommendation of the High Court up to any amount not exceeding rupees two hundred” shall be inserted.

D. FITZPATRICK,
Secy. to the Govt. of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Madras Civil Courts Act, 1873, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 15th October, 1885:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Madras Civil Courts Act, 1873, was referred, have considered the Bill and the papers noted in the margin and have now the honour to submit this our Report.

2. The changes which we have made in the Bill have, with certain variations in drafting, been made in accordance with the recommendation of the Madras High Court and the Governor of Madras in Council.

They are as follows:—

- (a) a new section (2) has been inserted to remove a difficulty which has been felt about arranging, as is sometimes convenient, that a Court should sit at a place beyond the local limits of its jurisdiction;
- (b) section 3 of the amended Bill (corresponding to section 2 of the Bill as introduced) has been modified so as to meet more effectually the difficulties, as now explained, which arise when more than one District Munsif is appointed to the same local area;
- (c) a new section (4) has been inserted giving the High Court a control over the suspension and removal of ministerial officers of subordinate Courts;
- (d) the limit of value up to which Small Cause Court powers can be conferred on a District Munsif has been (section 5) reduced from Rs. 500 to Rs. 200, and it has further been provided that such powers, when the value exceeds Rs. 50 (the present limit), can be conferred only on the recommendation of the High Court.

3. The publication ordered by the Council has been made as follows:—

In English.

<i>Gazette.</i>	<i>Date.</i>
<i>Gazette of India</i> ...	... 30th May, and 16th and 13th June, 1885.
<i>Fort Saint George Gazette</i> ...	... 16th June, 1885.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras ...	Telugu ...	31st July 1885
	Malayalam ...	
	Tamil ...	7th August, 1885.
	Kanarese ...	14th August, 1885.
	Hindustani ...	

We do not think that the measure has been so altered as to require republication, and we recommend that it be passed as now amended.

The 15th October, 1885.

C. P. ILBERT.

S. C. BAYLEY.

A. COLVIN.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 25, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd July, 1885, and was referred to a Select Committee:—

No. 13 of 1885.

A Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871.

X of 1882. WHEREAS it is expedient to amend the Code of
Bom. VII of Criminal Procedure, 1882, the Bombay District
1867. Police Act, 1867, the Indian Penal Code and the
XLV of 1860. Prisoners' Act, 1871; It is hereby enacted as
V of 1871. follows:—

Code of Criminal Procedure, 1882.

1. In the last paragraph of section 31 of the
Amendment of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of transportation or imprisonment for a term exceeding four years" shall be substituted.

2. For section 34 of the same Code the following shall be substituted, namely:—
Substitution of new section for section 34.

"34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of transportation or imprisonment for a term exceeding four years shall be subject to confirmation by the Sessions Judge."

3. In section 88 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted.

4. In section 110 of the same Code, for the words "Sub-divisional Magistrate or Magistrate of the first class" the words "or Sub-divisional Magistrate or a Magistrate of the first class" shall be substituted.

5. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

"Where a superior officer of Police has been appointed under section 158, the report shall, if the accused has been released on his bond under section 169, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation."

6. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted.

7. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely:—

"If any condition on which a sentence has been suspended or remitted by the Governor-General in Council or the Local Government is not fulfilled, the Governor-General in Council or the Local Government, as the case may be, may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely:—

“The condition on which a sentence is suspended or remitted under this section may be one to be performed by the person in whose favour the sentence is suspended or remitted, or one independent of his will.”

New section to follow section 475. 8. After section 475 of the same Code the following shall be inserted, namely:—

“475A. The Governor-General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.”

9. In section 510 of the same Code, for the words “the Chemical Examiner or Assistant Chemical Examiner to Government” the words “a Chemical Examiner to Government” shall be substituted.

New section to follow section 541. 10. After section 541 of the same Code the following shall be inserted, namely:—

“541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

“(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

“(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

“(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.”

11. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code the following shall be inserted, namely:—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
“If offence charged be punishable with imprisonment for seven years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first class.”

12. In the part of Schedule III of the same Code entitled “IV, Ordinary Powers of a Sub-divisional Magistrate,” the fol-

lowing shall be inserted after the second article, namely:—

“(2A) Power to require security for good behaviour, section 110.”

Bombay District Police Act, 1867.

13. The last nine words of section 23 of the Bombay District Police Act, Bom VII of 1867, are hereby repealed.

Indian Penal Code.

Substitution of new section for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure. 14. (1) For section 225A of the Indian Penal Code, the following shall be substituted, namely:—

“225A. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

(2) Section 651 of the Code of Civil Procedure XIV of 1882 is hereby repealed.

Prisoners' Act, 1871.

15. For section 30 of the Prisoners' Act, 1871, V of 1871, the following shall be substituted, namely:—

“30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector-General of Jails, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.”

16. After the second paragraph of section 31 of the same Act the following shall be inserted, namely:—

“In any case in which the Local Government is competent under this section to order the removal of a prisoner to a lunatic asylum or other fit place of safe custody within the territories subject to its administration, the Governor General in Council may order his removal to any lunatic

XIV of 1882.

XIV of 1882.

XLV of 1880.

X of 1882.

asylum or other fit place of safe custody in any part of British India, and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of the Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor-General in Council."

17. For section 32 of the same Act the following

Substitution of new section for section 32. ing shall be substituted, namely :—

"32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India."

X of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to correct certain minor defects in the criminal law which have been brought to the notice of the Government of India during the three years which have elapsed since the Code of Criminal Procedure, 1882, was passed.

The following are the reasons for each of the proposed amendments.

Section 1.—An Assistant Sessions Judge may pass a substantive sentence of transportation for any term not exceeding seven years under section 121A or section 124A of the Indian Penal Code, or a substituted sentence of transportation for a term not less than seven years under section 59 of that Code. But only sentences of imprisonment for a term exceeding three years are declared subject to confirmation by the Sessions Judge. The omission to require that certain sentences of transportation as well as of imprisonment should be subject to confirmation was clearly an oversight. It is now proposed to correct the omission, and, in accordance with the opinion of the Hon'ble the Chief Justice and Judges of the Bombay High Court, to extend to four years the term of transportation or imprisonment which an Assistant Sessions Judge may award without the sentence being subject to confirmation. Under section 35 of the Code a first class Magistrate can pass an aggregate sentence of imprisonment for four years which is subject only to appeal.

Section 2.—A District Magistrate specially empowered under section 30 may, under the provisions of section 59 of the Indian Penal Code, pass a sentence of transportation for seven years, instead of awarding sentence of imprisonment (9 Sutherland's Weekly Reporter, Criminal Rulings, 6). Such a substituted sentence of transportation should be subject to confirmation by the Sessions Judge.

As section 34 now stands, an aggregate sentence of imprisonment for four years passed by a District Magistrate specially empowered under section 30 is subject to the confirmation of the Sessions Judge, while such a sentence passed by one of his subordinates exercising the powers of a first class Magistrate is subject only to appeal. It seems desirable, therefore, as recommended by the Bombay High Court in the case of Assistant Sessions Judges, to extend to four years the term of imprisonment which a District Magistrate may award under section 34 without the sentence being subject to confirmation.

The difference between the powers of the Assistant Sessions Judge and those of a Magistrate specially empowered under section 30 being thus very trifling, it has been thought best to put the latter on precisely the same footing as the former, and section 34 has accordingly been re-cast.

Section 3.—This section is intended to correct an oversight in the drafting of section 88. Section 10 of the Code confines the term "District Magistrate" to the Magistrate of a district outside a Presidency-town.

Sections 4 and 12.—The object of these sections is to make it clearer than section 110 and Schedule III now do that Sub-divisional Magistrates have power, without being specially empowered by the Local Government in that behalf, to require security for good behaviour from habitual offenders.

Section 5.—This section will restore the practice that obtained while the Code of 1872 was in force. Under that Code police-reports under section 125 were submitted through the superior officer of police appointed under section 117, but those under section 127 were submitted direct to the Magistrate.

Section 6.—This section will remove a doubt which has been expressed as to whether High Courts other than those referred to in section 266 can make rules under the Code regarding the manner in which jurors shall be chosen by lot.

Section 7.—It would seem that the only sort of condition on which suspension or remission of sentence may now be granted under section 401 is a potestative condition, that is to say, a condition to be performed by the convict and dependent on his will. This limitation may prove inconvenient, and sometimes prevent the release of convicts who might otherwise be set at large.

Section 8.—The object of this section is to give the Governor-General in Council the same powers in regard to the removal of persons confined under Chapter XXXIV of the Code as he possesses under section 32 of the Prisoners' Act, 1871, in the case of persons under sentence of imprisonment. It is desirable that, by whatever Local Government criminal lunatics may have been ordered to be confined, they should be confined wherever the most suitable accommodation has been provided for the custody of such persons.

Section 9.—This section is suggested by I. L. R. 10 Cal. 1026. The effect of it will be that a Local Government may appoint as many Chemical Examiners as it thinks fit. All must be gazetted as "Chemical Examiners" and must sign as such, but they can, for departmental purposes, be graded or distinguished from one another in such manner as the Local Government desires.

Section 10.—The power of a Criminal Court to order the transfer from the civil jail to the criminal jail of a civil prisoner against whom a criminal charge is made having been questioned in the Bombay Presidency, the Local Government asked the High Court whether that Court could make a rule conferring the power. In reply the Hon'ble the Chief Justice and Judges stated that they were very doubtful whether they had authority to make any valid rule on the subject, and advised that, if the conferment of the power was deemed necessary, recourse should be had to legislation.

It appears to the Government of Bombay and to the Government of India that the power should be conferred, and the object of this section is to confer it.

At the same time, in order that the rights given to decree-holders by the existing law may not be interfered with, it has been provided that the prisoner shall ordinarily be sent back to the civil jail when his detention under the orders of the Criminal Court has ceased.

Section 11.—Under the Code of 1872 the offence, under section 211 of the Indian Penal Code, of making a false charge of an offence with intent to injure, was triable by the Court of Session exclusively when the offence charged was punishable with imprisonment for seven years or upwards. While the Bill which became the Code of 1882 was under consideration, the Select Committee determined, on the suggestion of a Sessions Judge, that Magistrates of the first class should be empowered to deal with cases under section 211 when the offence charged was punishable with imprisonment for seven years, cases where the offence charged was punishable with imprisonment for a term exceeding seven years continuing to be exclusively triable by the Court of Session. The entry in the second column of Schedule II, in the second line of entries against section 211, was altered accordingly; but the additional entries which it is proposed by section 11 of this Bill to insert in Schedule II will make still clearer the alteration which the Select Committee intended to effect.

Section 13.—The last nine words of section 24, Act V of 1861, were repealed by Schedule I of the Code of 1882. Through an oversight the same words in section 23, Bombay Act VII of 1867, remained unrepealed and are still in force (I. L. R. 8 Bombay 534). It is now proposed to repeal them.

Section 14.—It is proposed by this section to substitute for section 225A of the Indian Penal Code a section that will cover not only the case there provided for, but the cases which section 651 of the Code of Civil Procedure was intended to meet, and others, such as those referred to in I. L. R. 8 Cal. 331 and 7 All. 67, for which no provision has hitherto been made.

Section 15.—The exigencies of prison administration occasionally necessitate the transfer from one jail to another within the same province of persons who have been imprisoned in default of giving security for keeping the peace or maintaining good behaviour.

Section 30 of the Prisoners' Act only provides for the transfer of persons sentenced to imprisonment. "Sentence" seems to imply an antecedent conviction for an offence, and persons who are imprisoned for default in furnishing security are not persons who have been so convicted.

Section 16.—The object of this section, as of section 8, is to empower the Governor-General in Council to send prisoners of unsound mind to the part of India where persons in their condition are likely to be best cared for.

Section 17.—It occasionally happens that members of criminal tribes, while on marauding expeditions in other provinces than that in which they have their homes, are arrested, ordered to give security for good behaviour, and imprisoned in default of giving it. In such cases it seems proper that the prisoners should ordinarily be sent back to the district from which they came, instead of being released in a district which may be hundreds of miles distant from their homes and where dishonesty might be their only possible means of subsistence.

The 13th July, 1885.

C. P. ILBERT.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 1, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd July, 1885, and was referred to a Select Committee:—

No. 13 OF 1885.

A Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871; It is hereby enacted as follows:—

Code of Criminal Procedure, 1882.

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of transportation or imprisonment for a term exceeding four years" shall be substituted.

2. For section 34 of the same Code the following shall be substituted, namely:—

"34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of transportation or imprisonment for a term exceeding four years shall be subject to confirmation by the Sessions Judge."

3. In section 88 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted.

4. In section 110 of the same Code, for the words "Sub-divisional Magistrate or Magistrate of the first class" the words "or Sub-divisional Magistrate or a Magistrate of the first class" shall be substituted.

5. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely:—

"Where a superior officer of Police has been appointed under section 158, the report shall, if the accused has been released on his bond under section 169, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation."

6. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted.

7. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely:—

"If any condition on which a sentence has been suspended or remitted by the Governor-General in Council or the Local Government is not fulfilled, the Governor-General in Council or the Local Government, as the case may be, may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely:—

“The condition on which a sentence is suspended or remitted under this section may be one to be performed by the person in whose favour the sentence is suspended or remitted, or one independent of his will.”

New section to follow 8. After section 475 of the same Code the following shall be inserted, namely:—

“475A. The Governor-General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.”

9. In section 510 of the same Code, for the words “the Chemical Examiner or Assistant Chemical Examiner to Government” the words “a Chemical Examiner to Government” shall be substituted.

New section to follow 10. After section 541 of the same Code the following shall be inserted, namely:—

“541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

“(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 312 of the Code of Civil Procedure; or

“(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.”

11. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code the following shall be inserted, namely:—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
“If offence charged be punishable with imprisonment for seven years.”	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first class.”

12. In the part of Schedule III of the same Code entitled “IV, Ordinary Powers of a Sub-divisional Magistrate,” the fol-

lowing shall be inserted after the second article, namely:—

“(2A) Power to require security for good behaviour, section 110.”

Bombay District Police Act, 1867.

13. The last nine words of section 23 of the Bombay District Police Act, 1867, are hereby repealed.

Indian Penal Code.

Substitution of new section for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure. 14. (1) For section 225A of the Indian Penal Code, the following shall be substituted, namely:—

“225A. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

(2) Section 651 of the Code of Civil Procedure XIV of 1882. is hereby repealed.

Prisoners' Act, 1871.

15. For section 30 of the Prisoners' Act, 1871, v of 1871. the following shall be substituted, namely:—

“30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector General of Jails, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.”

16. After the second paragraph of section 31 of the same Act the following shall be inserted, namely:—

“In any case in which the Local Government is competent under this section to order the removal of a prisoner to a lunatic asylum or other fit place of safe custody within the territories subject to its administration, the Governor General in Council may order his removal to any lunatic

XIV of 1882.

XIV of 1882.

XLV of 1880.

X of 1882

asylum or other fit place of safe custody in any part of British India, and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of the Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor-General in Council."

17. For section 32 of the same Act the following shall be substituted, namely:—

Substitution of new section for section 32.

"32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India."

Removal of prisoners from territories under one Local Government to territories under another.

X of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to correct certain minor defects in the criminal law which have been brought to the notice of the Government of India during the three years which have elapsed since the Code of Criminal Procedure, 1882, was passed.

The following are the reasons for each of the proposed amendments.

Section 1.—An Assistant Sessions Judge may pass a substantive sentence of transportation for any term not exceeding seven years under section 121A or section 124A of the Indian Penal Code, or a substituted sentence of transportation for a term not less than seven years under section 59 of that Code. But only sentences of imprisonment for a term exceeding three years are declared subject to confirmation by the Sessions Judge. The omission to require that certain sentences of transportation as well as of imprisonment should be subject to confirmation was clearly an oversight. It is now proposed to correct the omission, and, in accordance with the opinion of the Hon'ble the Chief Justice and Judges of the Bombay High Court, to extend to four years the term of transportation or imprisonment which an Assistant Sessions Judge may award without the sentence being subject to confirmation. Under section 35 of the Code a first class Magistrate can pass an aggregate sentence of imprisonment for four years which is subject only to appeal.

Section 2.—A District Magistrate specially empowered under section 30 may, under the provisions of section 59 of the Indian Penal Code, pass a sentence of transportation for seven years, instead of awarding sentence of imprisonment (9 Sutherland's Weekly Reporter, Criminal Rulings, 6). Such a substituted sentence of transportation should be subject to confirmation by the Sessions Judge.

As section 34 now stands, an aggregate sentence of imprisonment for four years passed by a District Magistrate specially empowered under section 30 is subject to the confirmation of the Sessions Judge, while such a sentence passed by one of his subordinates exercising the powers of a first class Magistrate is subject only to appeal. It seems desirable, therefore, as recommended by the Bombay High Court in the case of Assistant Sessions Judges, to extend to four years the term of imprisonment which a District Magistrate may award under section 34 without the sentence being subject to confirmation.

The difference between the powers of the Assistant Sessions Judge and those of a Magistrate specially empowered under section 30 being thus very trifling, it has been thought best to put the latter on precisely the same footing as the former, and section 34 has accordingly been re-cast.

Section 3.—This section is intended to correct an oversight in the drafting of section 88. Section 10 of the Code confines the term "District Magistrate" to the Magistrate of a district outside a Presidency town.

Sections 4 and 12.—The object of these sections is to make it clearer than section 110 and Schedule III now do that Sub-divisional Magistrates have power, without being specially empowered by the Local Government in that behalf, to require security for good behaviour from habitual offenders.

Section 5.—This section will restore the practice that obtained while the Code of 1872 was in force. Under that Code police-reports under section 125 were submitted through the superior officer of police appointed under section 117, but those under section 127 were submitted direct to the Magistrate.

Section 6.—This section will remove a doubt which has been expressed as to whether High Courts other than those referred to in section 266 can make rules under the Code regarding the manner in which jurors shall be chosen by lot.

Section 7.—It would seem that the only sort of condition on which suspension or remission of sentence may now be granted under section 401 is a potestative condition, that is to say, a condition to be performed by the convict and dependent on his will. This limitation may prove inconvenient, and sometimes prevent the release of convicts who might otherwise be set at large.

Section 8.—The object of this section is to give the Governor-General in Council the same powers in regard to the removal of persons confined under Chapter XXXIV of the Code as he possesses under section 32 of the Prisoners' Act, 1871, in the case of persons under sentence of imprisonment. It is desirable that, by whatever Local Government criminal lunatics may have been ordered to be confined, they should be confined wherever the most suitable accommodation has been provided for the custody of such persons.

Section 9.—This section is suggested by I. L. R. 10 Cal. 1026. The effect of it will be that a Local Government may appoint as many Chemical Examiners as it thinks fit. All must be gazetted as "Chemical Examiners" and must sign as such; but they can, for departmental purposes, be graded or distinguished from one another in such manner as the Local Government desires.

Section 10.—The power of a Criminal Court to order the transfer from the civil jail to the criminal jail of a civil prisoner against whom a criminal charge is made having been questioned in the Bombay Presidency, the Local Government asked the High Court whether that Court could make a rule conferring the power. In reply the Hon'ble the Chief Justice and Judges stated that they were very doubtful whether they had authority to make any valid rule on the subject, and advised that, if the conferment of the power was deemed necessary, recourse should be had to legislation.

It appears to the Government of Bombay and to the Government of India that the power should be conferred, and the object of this section is to confer it.

At the same time, in order that the rights given to decree-holders by the existing law may not be interfered with, it has been provided that the prisoner shall ordinarily be sent back to the civil jail when his detention under the orders of the Criminal Court has ceased.

Section 11.—Under the Code of 1872 the offence, under section 211 of the Indian Penal Code, of making a false charge of an offence with intent to injure, was triable by the Court of Session exclusively when the offence charged was punishable with imprisonment for seven years or upwards. While the Bill which became the Code of 1882 was under consideration, the Select Committee determined, on the suggestion of a Sessions Judge, that Magistrates of the first class should be empowered to deal with cases under section 211 when the offence charged was punishable with imprisonment for seven years, cases where the offence charged was punishable with imprisonment for a term exceeding seven years continuing to be exclusively triable by the Court of Session. The entry in the second column of Schedule II, in the second line of entries against section 211, was altered accordingly; but the additional entries which it is proposed by section 11 of this Bill to insert in Schedule II will make still clearer the alteration which the Select Committee intended to effect.

Section 12.—The last nine words of section 24, Act V of 1861, were repealed by Schedule I of the Code of 1882. Through an oversight the same words in section 23, Bombay Act VII of 1867, remained unrepealed and are still in force (I. L. R. 8 Bombay 534). It is now proposed to repeal them.

Section 14.—It is proposed by this section to substitute for section 225A of the Indian Penal Code a section that will cover not only the case there provided for, but the cases which section 651 of the Code of Civil Procedure was intended to meet, and others, such as those referred to in I. L. R. 8 Cal. 331 and 7 All. 67, for which no provision has hitherto been made.

Section 15.—The exigencies of prison administration occasionally necessitate the transfer from one jail to another within the same province of persons who have been imprisoned in default of giving security for keeping the peace or maintaining good behaviour.

Section 30 of the Prisoners' Act only provides for the transfer of persons *sentenced* to imprisonment. "Sentence" seems to imply an antecedent conviction for an offence, and persons who are imprisoned for default in furnishing security are not persons who have been so convicted.

Section 16.—The object of this section, as of section 8, is to empower the Governor-General in Council to send prisoners of unsound mind to the part of India where persons in their condition are likely to be best cared for.

Section 17.—It occasionally happens that members of criminal tribes, while on marauding expeditions in other provinces than that in which they have their homes, are arrested, ordered to give security for good behaviour, and imprisoned in default of giving it. In such cases it seems proper that the prisoners should ordinarily be sent back to the district from which they came, instead of being released in a district which may be hundreds of miles distant from their homes and where dishonesty might be their only possible means of subsistence.

The 13th July, 1885.

C. P. ILBERT.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 29th July, 1885, and was referred to a Select Committee:—

No. 14 of 1885.

THE CENTRAL PROVINCES CIVIL COURTS BILL, 1885.

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A Bill to amend the Law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Central Provinces Civil Courts Act, 1885.

- (2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

The Central Provinces Civil Courts Bill, 1885.—Sections 2-10.

(3) It shall come into force on the first day of January, 1886.

[Act XVIII of 1884, section 1, sub-section (4).]

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

XIV of 1865.

2. (1) On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII of 1867, so far as it relates to the Central Provinces, shall be repealed.

Repeal.

[See Act XVIII of 1881, ss. 33-38.]

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given and orders issued under either of those enactments shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given and issued under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

"Assistant Commissioner" includes Extra Assistant Commissioner; and

"value," used with reference to a suit, means the amount or value of the subject-matter of the suit.

[Act XIV of 1865, section 2.]

[Act XVIII of 1884, section 3, clause (8).]

Classes of Courts.

4. Besides the Courts of Small Causes established under Act XI of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:—

[Act XIV of 1865, section 4.]

- (a) the Court of the Judicial Commissioner;
- (b) the Court of the Commissioner;
- (c) the Court of the Deputy Commissioner;
- (d) the Court of the Assistant Commissioner of the first class;
- (e) the Court of the Assistant Commissioner of the second class;
- (f) the Court of the Assistant Commissioner of the third class;
- (g) the Court of the Tahsildár of the first class;
- (h) the Court of the Tahsildár of the second class.

Court of the Judicial Commissioner.

[Act XVIII of 1884, sections 4 and 6.]

5. The Judicial Commissioner shall be appointed by the Governor-General in Council; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

[Act XIV of 1865, section 4.]

6. (1) The local limits of the jurisdiction of the Court of the Commissioner shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those of the district of the revenue-administration of which he is in charge.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

[Act XVIII of 1884, section 22.]

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

[Act XIV of 1865, section 3, and Act XVIII of 1884, section 23.]

Other Courts.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsildár, that his Court shall be that of a Tahsildár of the first or of the second class.

[Act XIV of 1865, section 5.]

10. (1) Courts of Assistant Commissioners and Tahsildárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table:—

[Act XIV of 1865, sections 7-11.]

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsildár of the first class	Three hundred rupees.
Court of the Tahsildár of the second class	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsildárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

*The Central Provinces Civil Courts Bill, 1885.—Sections 11-17.**Náib-tahsildárs.*

[Act XIV of 1865, section 6.]

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsildár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

[New.]

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

12. (1) The Chief Commissioner may, by order in writing, invest any person—

- (a) with all or any of the powers of the Court of the Commissioner under this Act;
- (b) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or
- (c) with all or any of the powers of the Court of a Tahsildár of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under subsection (1) shall be designated as follows:—

- if invested under clause (a)—Judicial Assistant to the Commissioner;
- if invested under clause (b)—Civil Judge;
- if invested under clause (c)—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners and Courts of Tahsildárs.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

[Act XVIII of 1865, section 34.]

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

[Act XVIII of 1865, section 35.]

14. (1) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner. [Act XVIII of 1884, section 33, sub-section (1).]

(3) Subject as aforesaid and to the control of Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner. [Act XVIII of 1884, section 33, sub-section (2).]

Provided that the Chief Commissioner, by order in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit. [New.]

15. (1) The Court of the Commissioner may exercise, as regards the Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. [Act XVIII of 1884, section 34.]

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

16. Notwithstanding anything contained in the Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit. [Act XVIII of 1884, section 35.]

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Appellate Jurisdiction.

17. (1) Appeals from decrees passed in original civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law and the value of the suit does not exceed one thousand rupees, lie to that Court. [Partly new. cf. Act XIV of 1865, sections 12, 13 and 14. & Act XVIII of 1884, section 39.]

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner.

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed

The Central Provinces Civil Courts Bill, 1885.—Sections 18-24.

by Civil Courts subordinate to the Court of the Judicial Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Judicial Commissioner.

[Act XIV of 1865, section 15, and Act XVIII of 1884, section 48.]

18. (1) The period of limitation for an appeal to the Court of the Commissioners shall be sixty days.

(2) In the computation of that period and in all other respects the limitation of appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Rules.

[Act XVIII of 1884, section 14.]

19. (1) The Judicial Commissioner may make rules consistent with this Act and any other enactment for the time being in force—

- (a) declaring what persons shall be permitted to practise as petition-writers in Civil Courts, and regulating the conduct of persons so practising;
- (b) prescribing forms for seals to be used by those Courts;
- (c) regulating the procedure in cases where any person is entitled to inspect a record of any Civil Court or obtain a copy of the same, and prescribing the fees payable by such persons for searches and copies;
- (d) conferring and imposing on the ministerial officers of Civil Courts such powers and duties of a non-judicial or quasi-judicial nature as he thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed;
- (e) prescribing forms for such books, entries, statistics and accounts as he thinks necessary to be kept, made or compiled in those Courts or submitted to any authority;
- (f) providing for the inspection of those Courts, and the supervision of the working thereof; and
- (g) regulating all such matters as he may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of those Courts and maintaining proper discipline among those officers.

(2) A rule made under this section shall not take effect until it has been sanctioned by the Chief Commissioner and published in the official Gazette.

(3) Whoever breaks any rule made under clause (a) shall be punished with fine which may extend to fifty rupees.

[New, cf. Act XVIII of 1884, section 37, and Act VI of 1871, section 38.]

(4) Rules made under clause (g) may provide, among other matters, for fines, to an amount not exceeding one month's salary, being imposed on ministerial officers for misconduct or neglect in the performance of their duties, and for the recovery of fines so imposed by deduction of the amount thereof from any salary that may be or become due to the officers fined.

Supplemental Provisions.

20. (1) The Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of his Court, and shall submit to the Chief Commissioner such of those registers, books and accounts, and such statements of the work done in his Court, as may be required by the Chief Commissioner.

(2) The Judicial Commissioner shall also comply, in such form and manner as the Chief Commissioner may deem proper, with such requisitions as may be made by the Chief Commissioner for records of, or papers belonging to, the Court of the Judicial Commissioner or any Civil Court subordinate thereto, or for certified copies of, or extracts from, such records or papers, or for returns, statements or reports.

21. (1) The Chief Commissioner may, by order in writing, fix the place or places at which any Civil Court shall be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Civil Court may be held at any place within the local limits of its jurisdiction.

22. The Chief Commissioner may, when he is empowered by this Act to confer any powers, confer them on any person specially by name or by virtue of his office.

23. (1) Subject to the approval of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as holidays in his Court and the Civil Courts subordinate thereto.

(2) The list shall be published in the official Gazette.

24. (1) All cases or proceedings pending in the Court of the Judicial Commissioner on the day when this Act comes into force shall be disposed of as if this Act had not been passed.

(2) All cases or proceedings pending in any Civil Court subordinate to the Court of the Judicial Commissioner on that day shall be disposed of as if this Act had not been passed.

Provided that the Judicial Commissioner may direct that any such cases or proceedings shall be transferred for disposal to any Court established under this Act which would have had jurisdiction if it had been in existence when the cases or proceedings were instituted.

(3) In the case of an appeal pending on the said day, the following shall, for the purposes of sub-section (2), be deemed to be the Court which

The Central Provinces Civil Courts Bill, 1885—Sections 25-27.

would have had jurisdiction as aforesaid, namely:—

- (a) when the value of the suit does not exceed one thousand rupees and the decree or order has been passed by a Court of a class lower than that of the Deputy Commissioner—the Court of the Deputy Commissioner;
- (b) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

XVIII of
section

25. Appeals from decrees and orders passed by Civil Courts and not appealed against before the date on which this Act comes into force shall lie and be disposed of as if this Act had not been passed and not otherwise:

Provided that the Courts to which such appeals shall lie shall be as follows:—

- (a) when the appeal would before the said date have lain to the Court of the Judicial Commissioner—that Court;
- (b) when the appeal is from a decree or order passed by a Court of a class lower than that of the Deputy Commissioner in an original civil suit of which the value does not exceed one thousand rupees—the Court of the Deputy Commissioner;
- (c) in other cases when the decree or order has been passed by a Court of a class lower than that of the Commissioner—the Court of the Commissioner.

26. All powers conferred by this Act may be [cf. Act XVIII of 1884, section 65.]
Powers exercisable from time to time as occasion requires.

27. All orders required by this Act to be issued by the Chief Commissioner in writing shall be published in the official Gazette.

STATEMENT OF OBJECTS AND REASONS.

THE principal object of this Bill is to enable the Chief Commissioner of the Central Provinces to relieve some of the Commissioners, Deputy Commissioners and Tahsildárs of the civil business with which they are now so over-burdened as to have insufficient time to devote to their executive duties. At present, a Commissioner has power to try original civil suits withdrawn from Courts subordinate to him, and is required to hear all appeals from decrees and orders passed in original civil suits by Assistant Commissioners of the first class and by Deputy Commissioners. It is proposed to relieve Commissioners by making appeals from decrees and orders passed by Assistant Commissioners of the first class in original civil suits of value not exceeding one thousand rupees lie to the Deputy Commissioner, and by empowering the Chief Commissioner to invest persons, under the name of Judicial Assistants to Commissioners, with all or any of the powers of the Court of a Commissioner.

A Deputy Commissioner may, like a Commissioner, try original civil suits withdrawn from Courts subordinate to him, and is required to try all original civil suits of value exceeding one thousand rupees if there is no Assistant Commissioner of higher class than the second in the district, and exceeding five thousand rupees if there is in the district an Assistant Commissioner of the first class, and to hear appeals from decrees and orders of Naib-tahsildárs, Tahsildárs and Assistant Commissioners of the first and second classes. It is proposed to relieve Deputy Commissioners by empowering the Chief Commissioner to invest persons, under the name of Civil Judges, with all or any of the powers of the Court of a Deputy Commissioner.

Similarly, Tahsildárs are to be relieved by the appointment of Munsifs, who may be invested with all or any of their powers.

Judicial Assistants to Commissioners, Civil Judges and Munsifs will only be appointed when, and for so long as, their services are absolutely needed, and nothing like a uniform or final arrangement is to be attempted throughout the whole of the Provinces, the circumstances of which vary not only from district to district, but from tahsil to tahsil.

This scheme, which was proposed by Mr. Crosthwaite, the Chief Commissioner, has been approved by the Government of India. It proceeds on the principle that all suits should be tried and appeals heard in the lowest Court of competent jurisdiction, and it paves the way to the gradual removal of civil judicial business from the magisterial and executive authorities as the need for the removal arises.

As, in order to give effect to the scheme, it was necessary to amend the Central Provinces Courts Act, 1865, and that Act contained provisions which later legislation had rendered obsolete, and was in many respects defective, it was decided, with the concurrence of the Chief Commissioner, to consolidate the law relating to Civil Courts in the Central Provinces, and to incorporate in it not only the provisions necessary to give effect to Mr. Crosthwaite's scheme, but also certain portions of the Punjab Courts Act of last year.

This Bill has been prepared in accordance with that decision.

Those portions of the Bill which give effect to Mr. Crosthwaite's scheme for relieving Revenue-officers, where necessary, of the whole or part of their civil judicial business have already been sufficiently explained.

As to the proviso to section 10, sub-section (1), it may be remarked that certain classes of suits are at present excepted by executive order from the jurisdiction of Tahsildárs.

The other portions of the Bill which find no place in Act XIV of 1865 have for the most part been taken from Act XVIII of 1884.

The 27th July, 1885.

C. P. ILBERT.

D. FITZPATRICK,
Secy. to the Govt. of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 8, 1885.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced into the Council of the Governor General for making
Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd July, 1885, and was referred to a Select Committee :—

No. 13 of 1885.

A Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871.

X of 1882.
Bomb. VII of 1867.
XLV of 1860.
V of 1871.
WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian Penal Code and the Prisoners' Act, 1871; It is hereby enacted as follows :—

Code of Criminal Procedure, 1882.

X of 1882.
1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of transportation or imprisonment for a term exceeding four years" shall be substituted.

2. For section 34 of the same Code the following shall be substituted, namely :—
Substitution of new section for section 34.

"34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years; but any sentence of transportation or imprisonment for a term exceeding four years shall be subject to confirmation by the Sessions Judge."

3. In section 88 of the same Code, after the words "District Magistrate" the words "or Chief Presidency Magistrate" shall be inserted.

4. In section 110 of the same Code, for the words "Sub-divisional Magistrate or Magistrate of the first class" the words "or Sub-divisional Magistrate or a Magistrate of the first class" shall be substituted.

5. In section 173 of the same Code, the following shall be substituted for the second paragraph, namely :—

"Where a superior officer of Police has been appointed under section 158, the report shall, if the accused has been released on his bond under section 169, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation."

6. In section 266 of the same Code, for the word and figures "section 307" the words and figures "sections 276 and 307" shall be substituted.

7. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely :—

"If any condition on which a sentence has been suspended or remitted by the Governor-General in Council or the Local Government is not fulfilled, the Governor-General in Council or the Local Government, as the case may be, may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any Police-officer without warrant and remanded to undergo the unexpired portion of the sentence."

(2) After the third paragraph of the same section the following shall be inserted, namely:—

“The condition on which a sentence is suspended or remitted under this section may be one to be performed by the person in whose favour the sentence is suspended or remitted, or one independent of his will.”

New section to follow section 475. 8. After section 475 of the same Code the following shall be inserted, namely:—

“475A. The Governor-General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.”

9. In section 510 of the same Code, for the words “the Chemical Examiner or Assistant Chemical Examiner to Government” the words “a Chemical Examiner to Government” shall be substituted.

New section to follow section 541. 10. After section 541 of the same Code the following shall be inserted, namely:—

“541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

“(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

“(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

“(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.”

11. In Schedule II of the same Code, between the two lines of entries against section 211 of the Indian Penal Code the following shall be inserted, namely:—

Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
“If offence charged he punishable with imprisonment for seven years.”	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate, or Magistrate of the first class.”

12. In the part of Schedule III of the same Code entitled “IV, Ordinary Powers of a Sub-divisional Magistrate,” the fol-

lowing shall be inserted after the second article, namely:—

“(2A) Power to require security for good behaviour, section 110.”

Bombay District Police Act, 1867.

13. The last nine words of section 23 of the Bombay District Police Act, Bom. VII 1867, are hereby repealed. 1867.

Amendment of Bombay District Police Act.

Indian Penal Code.

Substitution of new section for section 225A of the Indian Penal Code, and repeal of section 651 of the Code of Civil Procedure.

14. (1) For section 225A of the Indian Penal Code, the XLV of 1885 following shall be substituted, namely:—

“225A. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

(2) Section 651 of the Code of Civil Procedure XIV of 1885 is hereby repealed.

Prisoners' Act, 1871.

15. For section 30 of the Prisoners' Act, 1871, v of 1871, the following shall be substituted, namely:—

“30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the X of 1882.

Local Government, or (subject to its orders and under its control) the Inspector General of Jails, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.”

16. After the second paragraph of section 31 Addition to section 31. of the same Act the following shall be inserted, namely:—

“In any case in which the Local Government is competent under this section to order the removal of a prisoner to a lunatic asylum or other fit place of safe custody within the territories subject to its administration, the Governor General in Council may order his removal to any lunatic

XIV of 1882.

XIV of 1882.

XLV of 1885.

asylum or other fit place of safe custody in any part of British India, and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of the Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor-General in Council."

17. For section 32 of the same Act the following shall be substituted, namely :—

Substitution of new section for section 32.

" 32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor-General in Council may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India."

Removal of prisoners from territories under one Local Government to territories under another.

X of 1882.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to correct certain minor defects in the criminal law which have been brought to the notice of the Government of India during the three years which have elapsed since the Code of Criminal Procedure, 1882, was passed.

The following are the reasons for each of the proposed amendments.

Section 1.—An Assistant Sessions Judge may pass a substantive sentence of transportation for any term not exceeding seven years under section 121A or section 124A of the Indian Penal Code, or a substituted sentence of transportation for a term not less than seven years under section 59 of that Code. But only sentences of imprisonment for a term exceeding three years are declared subject to confirmation by the Sessions Judge. The omission to require that certain sentences of transportation as well as of imprisonment should be subject to confirmation was clearly an oversight. It is now proposed to correct the omission, and, in accordance with the opinion of the Hon'ble the Chief Justice and Judges of the Bombay High Court, to extend to four years the term of transportation or imprisonment which an Assistant Sessions Judge may award without the sentence being subject to confirmation. Under section 35 of the Code a first class Magistrate can pass an aggregate sentence of imprisonment for four years which is subject only to appeal.

Section 2.—A District Magistrate specially empowered under section 30 may, under the provisions of section 59 of the Indian Penal Code, pass a sentence of transportation for seven years, instead of awarding sentence of imprisonment (9 Sutherland's Weekly Reporter, Criminal Rulings, 6). Such a substituted sentence of transportation should be subject to confirmation by the Sessions Judge.

As section 34 now stands, an aggregate sentence of imprisonment for four years passed by a District Magistrate specially empowered under section 30 is subject to the confirmation of the Sessions Judge, while such a sentence passed by one of his subordinates exercising the powers of a first class Magistrate is subject only to appeal. It seems desirable, therefore, as recommended by the Bombay High Court in the case of Assistant Sessions Judges, to extend to four years the term of imprisonment which a District Magistrate may award under section 34 without the sentence being subject to confirmation.

The difference between the powers of the Assistant Sessions Judge and those of a Magistrate specially empowered under section 30 being thus very trifling, it has been thought best to put the latter on precisely the same footing as the former, and section 34 has accordingly been re-cast.

Section 3.—This section is intended to correct an oversight in the drafting of section 88. Section 10 of the Code confines the term "District Magistrate" to the Magistrate of a district outside a Presidency town.

Sections 4 and 12.—The object of these sections is to make it clearer than section 110 and Schedule III now do that Sub-divisional Magistrates have power, without being specially empowered by the Local Government in that behalf, to require security for good behaviour from habitual offenders.

Section 5.—This section will restore the practice that obtained while the Code of 1872 was in force. Under that Code police-reports under section 125 were submitted through the superior officer of police appointed under section 117, but those under section 127 were submitted direct to the Magistrate.

Section 6.—This section will remove a doubt which has been expressed as to whether High Courts other than those referred to in section 266 can make rules under the Code regarding the manner in which jurors shall be chosen by lot.

Section 7.—It would seem that the only sort of condition on which suspension or remission of sentence may now be granted under section 401 is a potestative condition, that is to say, a condition to be performed by the convict and dependent on his will. This limitation may prove inconvenient, and sometimes prevent the release of convicts who might otherwise be set at large.

Section 8.—The object of this section is to give the Governor-General in Council the same powers in regard to the removal of persons confined under Chapter XXXIV of the Code as he possesses under section 32 of the Prisoners' Act, 1871, in the case of persons under sentence of imprisonment. It is desirable that, by whatever Local Government criminal lunatics may have been ordered to be confined, they should be confined wherever the most suitable accommodation has been provided for the custody of such persons.

Section 9.—This section is suggested by I. L. R. 10 Cal. 1026. The effect of it will be that a Local Government may appoint as many Chemical Examiners as it thinks fit. All must be gazetted as "Chemical Examiners" and must sign as such; but they can, for departmental purposes, be graded or distinguished from one another in such manner as the Local Government desires.

Section 10.—The power of a Criminal Court to order the transfer from the civil jail to the criminal jail of a civil prisoner against whom a criminal charge is made having been questioned in the Bombay Presidency, the Local Government asked the High Court whether that Court could make a rule conferring the power. In reply the Hon'ble the Chief Justice and Judges stated that they were very doubtful whether they had authority to make any valid rule on the subject, and advised that, if the conferment of the power was deemed necessary, recourse should be had to legislation.

It appears to the Government of Bombay and to the Government of India that the power should be conferred, and the object of this section is to confer it.

At the same time, in order that the rights given to decree-holders by the existing law may not be interfered with, it has been provided that the prisoner shall ordinarily be sent back to the civil jail when his detention under the orders of the Criminal Court has ceased.

Section 11.—Under the Code of 1872 the offence, under section 211 of the Indian Penal Code, of making a false charge of an offence with intent to injure, was triable by the Court of Session exclusively when the offence charged was punishable with imprisonment for seven years or upwards. While the Bill which became the Code of 1882 was under consideration, the Select Committee determined, on the suggestion of a Sessions Judge, that Magistrates of the first class should be empowered to deal with cases under section 211 when the offence charged was punishable with imprisonment for seven years, cases where the offence charged was punishable with imprisonment for a term exceeding seven years continuing to be exclusively triable by the Court of Session. The entry in the second column of Schedule II, in the second line of entries against section 211, was altered accordingly; but the additional entries which it is proposed by section 11 of this Bill to insert in Schedule II will make still clearer the alteration which the Select Committee intended to effect.

Section 13.—The last nine words of section 24, Act V of 1861, were repealed by Schedule I of the Code of 1882. Through an oversight the same words in section 23, Bombay Act VII of 1867, remained unrepealed and are still in force (I. L. R. 8 Bombay 534). It is now proposed to repeal them.

Section 14.—It is proposed by this section to substitute for section 225A of the Indian Penal Code a section that will cover not only the case there provided for, but the cases which section 651 of the Code of Civil Procedure was intended to meet, and others, such as those referred to in I. L. R. 8 Cal. 331 and 7 All. 67, for which no provision has hitherto been made.

Section 15.—The exigencies of prison administration occasionally necessitate the transfer from one jail to another within the same province of persons who have been imprisoned in default of giving security for keeping the peace or maintaining good behaviour.

Section 30 of the Prisoners' Act only provides for the transfer of persons sentenced to imprisonment. "Sentence" seems to imply an antecedent conviction for an offence, and persons who are imprisoned for default in furnishing security are not persons who have been so convicted.

Section 16.—The object of this section, as of section 8, is to empower the Governor-General in Council to send prisoners of unsound mind to the part of India where persons in their condition are likely to be best cared for.

Section 17.—It occasionally happens that members of criminal tribes, while on marauding expeditions in other provinces than that in which they have their homes, are arrested, ordered to give security for good behaviour, and imprisoned in default of giving it. In such cases it seems proper that the prisoners should ordinarily be sent back to the district from which they came, instead of being released in a district which may be hundreds of miles distant from their homes and where dishonesty might be their only possible means of subsistence.

The 13th July, 1885.

C. P. ILBERT.

D. FITZPATRICK,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 29th July, 1885, and was referred to a Select Committee :—

No. 14 OF 1885.

THE CENTRAL PROVINCES CIVIL COURTS BILL, 1885.

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Judicial Assistants to Commissioners, Civil Judges and Munsifs.

12. Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

Small Cause Court Jurisdiction.

13. Power to confer Small Cause Court jurisdiction.

Administrative Control.

14. Superintendence and control of subordinate Courts by Courts of Judicial Commissioner, Commissioner and Deputy Commissioner.
15. Power of Court of Commissioner to transfer business.
16. Power to distribute business.

Appellate Jurisdiction.

17. Appeals to whom to lie.
18. Period of limitation for appeals.

Rules.

19. Power to make rules.

Supplemental Provisions.

20. Books and accounts, and statements and returns, to be kept and furnished by Judicial Commissioner.
21. Place of sitting of Courts.
22. Mode of conferring powers.
23. Vacations.
24. Pending proceedings.
25. Appeals after Act comes into force against decrees and orders passed before.
26. Powers exerciseable from time to time.
27. Publication of certain orders.

A Bill to amend the Law relating to Civil Courts in the Central Provinces.

WHEREAS it is expedient to amend the law relating to Civil Courts in the Central Provinces; It is hereby enacted as follows :—

Preliminary.

1. (1) This Act may be called the Central Short title, local extent and commencement. Provinces Civil Courts Act, 1885.

(2) It extends to the territories for the time being under the administration of the Chief Commissioner of the Central Provinces; and

The Central Provinces Civil Courts Bill, 1885.—Sections 2-10.

(3) It shall come into force on the first day of January, 1886.

[Act XVIII of 1884, section 1, sub-section (4).]

(4) Any authority conferred on the Chief Commissioner or on the Judicial Commissioner by this Act to issue orders or make rules may be exercised at any time after the passing of this Act; but an order or rule so issued or made shall not take effect until the Act comes into force.

2. (1) On and from the day on which this Act comes into force the Central Provinces Courts Act, 1865, and Act XXVII of 1867, so far as it relates to the Central Provinces, shall be repealed.

[See Act XVIII of 1881, ss. 33-38.]

(2) Any enactment or document referring to either of the enactments hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof; and all declarations made, powers conferred, limits prescribed, directions given and orders issued under either of those enactments shall, so far as may be, be deemed to have been respectively made, conferred, prescribed, given and issued under this Act.

3. In this Act, unless there is something repugnant in the subject or context,—

[Act XIV of 1865, section 2.]
[Act XVIII of 1884, section 3, clause (8).]

Definitions.
“Assistant Commissioner” includes Extra Assistant Commissioner; and
“value,” used with reference to a suit, means the amount or value of the subject-matter of the suit.

Classes of Courts.

[Act XIV of 1865, section 4.]

4. Besides the Courts of Small Causes established under Act XI of 1865, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:—

- (a) the Court of the Judicial Commissioner;
- (b) the Court of the Commissioner;
- (c) the Court of the Deputy Commissioner;
- (d) the Court of the Assistant Commissioner of the first class;
- (e) the Court of the Assistant Commissioner of the second class;
- (f) the Court of the Assistant Commissioner of the third class;
- (g) the Court of the Tahsildár of the first class;
- (h) the Court of the Tahsildár of the second class.

Court of the Judicial Commissioner.

[Act XVIII of 1884, sections 4 and 6.]

5. The Judicial Commissioner shall be appointed by the Governor-General in Council; and his Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Courts of Commissioners and Deputy Commissioners.

[Act XIV of 1865, section 3.]

6. (1) The local limits of the jurisdiction of the Court of the Commissioners and Deputy Commissioners shall be those of the division of the revenue-administration of which he is in charge.

(2) The local limits of the jurisdiction of the Court of the Deputy Commissioner shall be those of the district of the revenue-administration of which he is in charge.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the Commissioner and the Court of the Deputy Commissioner shall be competent to try original civil suits without limit as regards the value.

8. Except as otherwise provided by any enactment for the time being in force, the Deputy Commissioner shall be deemed to be the District Judge of the district, and his Court to be the District Court or principal Civil Court of original jurisdiction in the district.

Other Courts.

9. The Chief Commissioner may, by order in writing, declare, as regards any Assistant Commissioner, that his Court shall be that of an Assistant Commissioner of the first or of the second or of the third class, and, as regards any Tahsildár, that his Court shall be that of a Tahsildár of the first or of the second class.

10. (1) Courts of Assistant Commissioners and Tahsildárs shall be competent to try original civil suits of which the value does not exceed that specified against each Court in the following table:—

Courts.	Value.
Court of the Assistant Commissioner of the first class	Five thousand rupees.
Court of the Assistant Commissioner of the second class	One thousand rupees.
Court of the Assistant Commissioner of the third class	Five hundred rupees.
Court of the Tahsildár of the first class	Three hundred rupees.
Court of the Tahsildár of the second class	One hundred rupees.

Provided that the Chief Commissioner may, by order in writing, limit the classes of original civil suits which the Courts of Tahsildárs of the first or of the second class shall be competent to try.

(2) The local limits of the jurisdiction of the Courts mentioned in this section shall be such as the Chief Commissioner may, by order in writing, define.

*The Central Provinces Civil Courts Bill, 1885.—Sections 11-17.**Náib-tahsildárs.*

Act XIV of 1865, section

11. The Chief Commissioner may, by order in writing, invest, within such local limits as he thinks fit, any Náib-tahsildár with jurisdiction to try suits of the nature cognizable in a Court of Small Causes established under Act XI of 1865, up to such value, not exceeding fifty rupees, as he thinks fit.

Judicial Assistants to Commissioners, Civil Judges and Munsifs.

[New.]

Power to invest certain persons, under the names of Judicial Assistant to Commissioner, Civil Judge and Munsif, with certain powers.

12. (1) The Chief Commissioner may, by order in writing, invest any person—

- (a) with all or any of the powers of the Court of the Commissioner under this Act;
- (b) with all or any of the powers of the Court of the Deputy Commissioner under this Act; or
- (c) with all or any of the powers of the Court of a Tahsildár of the first or of the second class under this Act;

and declare that the powers with which any person is so invested shall be exercised within any specified local area, and with respect to any particular class, or particular classes, of cases, or with respect to cases generally.

(2) Persons invested with powers under subsection (1) shall be designated as follows:—

- if invested under clause (a)—Judicial Assistant to the Commissioner;
- if invested under clause (b)—Civil Judge;
- if invested under clause (c)—Munsif.

(3) The Courts of such persons shall, for all purposes connected with the exercise of the said powers, be deemed to be, respectively, Courts of Commissioners, Courts of Deputy Commissioners and Courts of Tahsildárs.

(4) The Chief Commissioner may, by order in writing, direct how business shall be distributed between the Commissioner and the Judicial Assistant to the Commissioner, and between the Deputy Commissioner and the Civil Judge.

Small Cause Court Jurisdiction.

Act XVIII of 1884, section

13. The Chief Commissioner may, by order in writing, confer, within such local limits as he thinks fit, upon any Court of an Assistant Commissioner of the first or of the second class the jurisdiction of a Judge of a Court of Small Causes under Act XI of 1865 for the trial of suits cognizable by such Courts up to such value as he thinks fit, not exceeding, if the Court is that of an Assistant Commissioner of the first class, five hundred rupees, or, if the Court is that of an Assistant Commissioner of the second class, one hundred rupees.

Administrative Control.

Act XVIII of 1884, section

14. (1) The general superintendence and control over all other Civil Courts shall be vested in, and all such Courts shall be subordinate to, the Court of the Judicial Commissioner.

(2) Subject to the general superintendence [Act XVIII of 1884, section 33, sub-section (1).] and control of the Court of the Judicial Commissioner, the control of all other Civil Courts in a division shall be vested in, and all such Courts shall be subordinate to, the Court of the Commissioner.

(3) Subject as aforesaid and to the control of [Act XVIII of 1884, section 33, sub-section (2).] the Court of the Commissioner, the control of all other Civil Courts in a district shall be vested in, and all such Courts shall be subordinate to, the Court of the Deputy Commissioner:

Provided that the Chief Commissioner, by order [New.] in writing, may direct that any Judicial Assistant to the Commissioner or Civil Judge shall not be subject to the control of, or subordinate to, the Court of the Commissioner or the Court of the Deputy Commissioner, as the case may be, and may further direct that such officer shall be subject to the control of, and subordinate to, such other Court as the Chief Commissioner thinks fit.

15. (1) The Court of the Commissioner may [Act XVIII of 1884, section 34.] exercise, as regards the business of the Commissioner to transfer Courts under its control, the same powers of withdrawal, trial and transfer as are conferred by section 25 of the Code of Civil Procedure on a District Court. XIV of 1882.

(2) The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of the suit, be deemed to be a Court of Small Causes.

16. Notwithstanding anything contained in the [Act XVIII of 1884, section 35.] Power to distribute Code of Civil Procedure, the Court of the Commissioner and the Court of the Deputy Commissioner may, by order in writing, direct that any civil business cognizable by it and the Courts under its control shall be distributed among those Courts in such manner as it thinks fit:

Provided that no direction given under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its proper jurisdiction.

Appellate Jurisdiction.

17. (1) Appeals from decrees passed in original [Partly new. cf. Act XIV of 1865, sections 12, 13 and 14, & Act XVIII of 1884, section 39.] Appeals to whom to civil suits by Courts subordinate to the Court of the Deputy Commissioner shall, when such appeals are allowed by law and the value of the suit does not exceed one thousand rupees, lie to that Court.

(2) Appeals from decrees passed in original civil suits of value exceeding one thousand rupees by the Court of an Assistant Commissioner of the first class, or by a Civil Judge who is subordinate to the Court of the Deputy Commissioner, and from decrees passed in original civil suits of any value by the Court of a Deputy Commissioner, or by a Civil Judge who is not subordinate to that Court, or by a Judicial Assistant to the Commissioner who is subordinate to the Court of the Commissioner, shall, when such appeals are allowed by law, lie to the Court of the Commissioner.

(3) Appeals from decrees passed in original civil suits by the Court of the Commissioner or by a Judicial Assistant to the Commissioner who is not subordinate to the Court of the Commissioner, and from appellate decrees passed